Laws and Resolutions

OF THE

STATE OF MONTANA

PASSED BY THE

Forty-first Legislative Assembly

In Regular and Extraordinary Sessions

Held at Helena, the Seat of Government of Said State,
Regular Session
January 6, 1969 to March 6, 1969
Extraordinary Session
March 10, 1969, to March 19, 1969

PUBLISHED BY AUTHORITY

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Certificate of Authentication

State of Montana
Department of
Secretary of State
} ss.

I, Frank Murray, Secretary of State of the State of Montana, do hereby certify that by virtue of the authority vested in me by law I have prepared for publication and caused to be printed a copy of all laws, resolutions and appropriation measures passed by the regular session of the Forty-first Legislative Assembly of the State of Montana commencing January 6, 1969, and concluding March 6, 1969, and the extraordinary session of the Forty-first Legislative Assembly commencing March 10, 1969, and concluding March 19, 1969; that I have caused to be compared the said printed laws, resolutions and appropriation measures with the original manuscript thereof now on file in my office, and that the following are true, full and correct copies thereof, including the referendum measure adopted by the people of Montana at the general election held in the State of Montana November 5, 1968.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this 15th day of June, 1969.

Frank Murray

Secretary of State.

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OFFICERS AND MEMBERS

OF THE

Forty-first Legislative Assembly of the State of Montana

1969

FORREST H. ANDERSON, Governor

Thomas L. Judge, Lieutenant Governor, President of the Senate
Gordon McGowan, President Pro Tem of the Senate
George Siderius, President Pro Tem (Ad Interim)
James P. Lucas, Speaker of the House

Members of the Senate

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
*Anderson, LeRoy	20	Box 576, Conrad	Pondera	Democrat
*Bennett, W. F.	30	Box 100, Columbia Falls	Flathead	Republican
*Bertsche, Wm. H.	18	1917 4th Ave. N., Great Falls	Cascade	Democrat
Bollinger, Gordon E.	5	217 Klein Ave., Glasgow	Valley	Democrat
Boylan, Paul F.	15	Star Rte., Bozeman	Gallatin	Democrat
Broeder, Fred O.	30	Rte. 4, Kalispell	Flathead	Republican
Brownfield, Ben	2	123 S. Taylor Ave., Glendive	Dawson	Republican
Cochrane, Archie M.	9	2958 Upper Highwood, Billings	Yellowstone	Republican
*Cotton, Robert S.	5	Box 27, Glasgow	Valley	Democrat
Deschamps, G. W. "Por"	26	Rte. 2, Missoula	Missoula	Republican
DeWolfe, Percy	29	Browning	Glacier	Democrat
Dzivi, Dick	18	G. F. Nat'l. Bk. Bldg., Gt. Falls	Cascade	Democrat
*Flynn, Elmer	26	Mullan Rd., Missoula	Missoula	Democrat
*Folsom, Mills	26	4000 Altura Dr., Missoula	Missoula	Republican
*Gilfeather, P. J.	18	2816 4th Ave. S., Gt. Falls	Cascade	Democrat
Goodheart, B. J. "Swede"	10	P.O. Box 1013, Malta	Phillips	Democrat
*Graham, Carroll A.	8	Lodge Grass	Big Horn	Democrat
*Groff, W. A. "Bill"	25	Victor	Ravalli	Democrat
Hafferman, William F.	31	314 E. 9th, Libby	Lincoln	Democrat
*Haughey, James M.	9	2205 Tree Lane, Billings	Yellowstone	Republican
*Hazelbaker, Frank W.	24	Box 430, Dillon	Beaverhead	Republican
Hibbard, Henry S.	21	618 Madison, Helena	Lewis & Clark	Republican
*James, David F.	19	Box 221, Joplin	Liberty	Democrat
*Keenan, P. J.	22	1112 E. 5th, Anaconda	Deer Lodge	Democrat
*Klindt, Herbert J.	9	402 Alderson, Billings	Yellowstone	Republican
*Lehrkind, Carl, Jr.	15	Box 399, Bozeman	Gallatin	Republican
Lynch, Neil J.	23	211 Miners Bk. Bldg., Butte	Silver Bow	Democrat
Lyon, John	20	841 N. Marias, Shelby	Toole	Republican
*Mackay, William R.	13	Roscoe	Carbon	Republican
*Mahoney, Eugene H.	27	Box 38, Thompson Falls	Sanders	Democrat
Manning, Dave M.	6	Hysham	Treasure	Democrat
Mathers, William L.	7	P. O. Box 267, Miles City	Custer	Republican
McDonald, John K. (Jack)	18	Belt	Cascade	Democrat
*McGowan, Gordon	17	Highwood	Chouteau	Democrat
McKeon, John L. (Luke)	22	316 E. 7th, Anaconda	Deer Lodge	Democrat
Mitchell, Harry B.	18	c/o Ayrshire Dairy, Gt. Falls	Cascade	Democrat
*Moritz, Earl	11	1024 Evelyn St., Lewistown	Fergus	Republican
Moore, Jim	12	Two Dot	Wheatland	Republican
Nees, Stanley	4	Poplar	Roosevelt	Democrat
Northey, Harry T.	26	514 Daly, Missoula	Missoula	Republican
Reardon, Frank D.	23	801 Maryland, Butte	Silver Bow	Democrat
**Reber, Joseph B.	21	801 Floweree, Helena	Lewis & Clark	Democrat
Rehberg, Jack D.	9	2317 Rehberg Lane, Billings	Yellowstone	Republican
*Rosell, Antoinette Fraser	9	4200 Rimrock Rd., Billings	Yellowstone	Republican
Rostad, Carl	16	Loweth Rt., Martinsdale	Meagher	Republican
*Rugg, Glen T.	1	Box 188, Plevna	Fallon	Republican
*Selstad, Tom	18	133 29th Ave. N.W., Gt. Falls	Cascade	Republican
Sheehy, John C.	9	1041 Poly Dr., Billings	Yellowstone	Democrat
*Shugrue, Stephen J.	23	980 N. Main, Butte	Silver Bow	Democrat
*Siderius, George	30	c/o Somers Stage, Kalispell	Flathead	Democrat
*Stein, Ben H.	14	Wilsall	Park	Republican
Stephens, Stan	19	33 Beaver Creek Blvd., Havre	Hill	Republican
Thiessen, Cornie R.	3	Box 195, Lambert	Richland	Democrat
*Turnage, Jean A.	28	Box 450, Polson	Lake	Republican
*Vainio, Leonard W.	23	1701 Grand, Butte	Silver Bow	Democrat

*Term expires 1971; all other Senators four-year terms.
**Appointed for the unexpired term of the Honorable Thomas L. Judge, elected Lieutenant Governor. Term expires in 1971.

NOTE: Sparks, Edward N.—District 23, 2828 Edwards St., Butte, Silver Bow County, Republican. Seated February 2, 1969, to succeed the Honorable Leonard W. Vainio, deceased. Term expires 1971.

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House of Representatives

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
Asbjornson, J. O. "Boots"	11	Winifred	Fergus	Republican
Aspevig, LeRoy "Bud"	19	Rudyard	Hill	Democrat
Aubert, Edward J	29	Box 579, Browning	Glacier	Democrat
Baeth, William R. (Bill)	31	614 Louisiana, Libby	Lincoln	Democrat
Bardanouve, Francis	10B	Harlem	Blaine	Democrat
Brand, Joe	22A	800 Montana, Deer Lodge	Powell	Democrat
Brownlee, Geo	17	Stanford	Judith Basin	Republican
Burnett, James H. (Jim)	13	Luther	Carbon	Republican
Campbell, William R. "Lefty"	26	620 Crestline Dr., Missoula	Missoula	Republican
Casey, Loran	4	Wolf Point	Roosevelt	Republican
Cashmore, Wm. F., M.D.	21	10 Montana Ave., Helena	Lewis & Clark	Republican
Christiansen, E. W. "Bill"	8	310 N. Crow, Hardin	Big Horn	Democrat
Clemow, Tom	24A	Jackson, Box 853	Beaverhead	Republican
Combs, Peter T.	24B	Ennis	Madison	Republican
Cranston, Earl M.	9	2605 Emerson Pl., Billings	Yellowstone	Republican
Dye, Robert F.	15	610 So. Willson, Bozeman	Gallatin	Republican
East, Vic	6	Forsyth	Rosebud	Republican
Egan, Eugene C.	20B	R.R. 3, Valier	Pondera	Democrat
Eggebrecht, Ralph F.	4	320 Edgar St., Wolf Point	Roosevelt	Democrat
Fagg, Harrison G.	9	3210-3rd. Ave. N., Billings	Yellowstone	Republican
Falkenstern, Arnold H.	1	Terry	Prairie	Republican
Fasbender, Larry	18	Fort Shaw	Cascade	Democrat
Feda, G. C. "Jerry"	5B	907 5th Ave. No., Glasgow	Valley	Republican
Feisthamel, Robert M.	2	510 E. Williams, Glendive	Dawson	Republican
Fleming, James F., Jr.	28	Pablo	Lake	Democrat
Forester, Richard L.	9	439 Grandview Blvd., Billings	Yellowstone	Republican
Gerke, Harold E.	9	202 Mtn. View, Billings	Yellowstone	Democrat
Giesick, Gary	9	Rte. 1, Box 106, Billings	Yellowstone	Republican
Gilligan, Peter J	18	3020 4th Ave. S., Gt. Falls	Cascade	Democrat
Glennen, Robert E.	9	1135 O'Malley Dr., Billings	Yellowstone	Republican
Goan, William S.	9	46 Lewis, Billings	Yellowstone	Republican
Gunderson, Jack	18	Power	Cascade	Democrat
Hageman, Alvin	13	P. O. @ Broadview, Montana resides at Rapelje	Stillwater	Democrat
Haines, Tom	26	15 Martha's Court, Missoula	Missoula	Republican
Hall, John C	18	1020 3rd Ave. N., Gt. Falls	Cascade	Democrat
Harlow, Paul K.	27	Box 277, Thompson Falls	Sanders	Democrat
Harrison, James T. Jr.	21	1100 Choteau, Helena	Lewis & Clark	Republican
Healy, John E. (Jack)	23	624 W. Granite, Butte	Silver Bow	Democrat
Hemstad, Nels	20C	Dutton	Teton	Republican
Himsl, Matt	30	305 4th Ave. E., Kalispell	Flathead	Republican
Holtz, Malcolm E.	18	2625 4th Ave. N., Great Falls	Cascade	Republican
Holtz, Ronald-W.	18	Rte. 1, Box 40, Floweree	Cascade	Democrat
Johnston, George R.	29	504 3rd St. S.E., Cut Bank	Glacier	Democrat
Jordan, B. J. "Buck"	2	1514 E. Ames Wye, Glendive	Dawson	Republican
Jurcich, Frank J	22B	1006 E. 3rd., Anaconda	Deer Lodge	Democrat
Kendall, Orin P.	27	Box 563, Thompson Falls	Sanders	Democrat
Knudsen, D. L. (Ike)	5B	65 Aberdeen, Glasgow	Valley	Democrat
Kolstad, Allen C.	19	Chester	Liberty	Republican
Kosena, Albert E.	22B	106 N. Main, Anaconda	Deer Lodge	Democrat
Kvaalen, Oscar S.	3	Lambert	Richland	Republican
Laas, Walter	19	Chester	Liberty	Democrat
Lee, Robert E. (Bob)	23	1945 Florida, Butte	Silver Bow	Democrat
Loble, Lester H., II	21	1001 Billings Ave., Helena	Lewis & Clark	Democrat
Lombardi, Jerry V.	23	947 Waukesha, Butte	Silver Bow	Democrat
Lucas, James P.	7	500 So. Strevell, Miles City	Custer	Republican
Lund, Art	5B	Scobey	Daniels	Republican
Lundgren, Conrad F.	30	844 Woodland, Kalispell	Flathead	Republican
Marks, Robert L.	16	P. O. Box 6, Clancy	Jefferson	Republican
Mather, W. S. (Bill)	9	2200 Fairway Dr., Billings	Yellowstone	Republican
McCulloch, Robert B.	15	504 W. Main, Bozeman	Gallatin	Republican
McGrath, Harold	23	640 S. Montana, Butte	Silver Bow	Democrat
Mehrens, John (Sandy)	22B	206 Evergreen, Anaconda	Deer Lodge	Democrat
Melcher, John	6	Forsyth	Rosebud	Democrat
Murphy, James E.	30	604 Woodland, Kalispell	Flathead	Republican
Newby, Al C.	15	Box 107, Belgrade	Gallatin	Republican
Nichols, Norris	25	Stevensville	Ravalli	Republican
Nugent, James P.	26	637 Alder, Missoula	Missoula	Democrat
Nyquist, I. M. (Irv)	18	Box 2849, Great Falls	Cascade	Republican
Patrick, Chase	21	714 6th Ave., Helena	Lewis & Clark	Republican
Payne, R. F. (Bob)	26	3109 Park, Missoula	Missoula	Republican
Perry, Louis	10A	Box 178, Malta	Phillips	Republican
Pierce, John H.	9	1312 Parkhill Dr., Billings	Yellowstone	Republican
Polich, Rudolph W.	18	3004 1st Ave. N., Great Falls	Cascade	Republican
Prevost, Robert C.	3	Lambert	Richland	Democrat
Robbins, Hershel M.	12A	915 1st East, Roundup	Musselshell	Democrat
Romney, Miles	25	P. O. Box 633, Hamilton	Ravalli	Democrat
Rygg, Sterling	30	37 7th St. E., Kalispell	Flathead	Republican
Schoonover, Leland	28	Box 941, Polson	Lake	Democrat
Scott, Jeffrey J	9	194 Mtn. View Blvd., Billings	Yellowstone	Republican
Shively, John D.	15	1101 S. 3rd., Bozeman	Gallatin	Republican
Smith, Carl M.	8	Olive	Powder River	Republican
Smith, Ed. B.	5A	Dagmar	Sheridan	Republican
Spahr, William E.	18	1204 4th Ave. N., Great Falls	Cascade	Democrat

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HOUSE OF REPRESENTATIVES—(Continued)

NAME	DIST. NO.	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE	POLITICS
Speare, William J.	9	2436 Teton Ave., Billings	Yellowstone	Democrat
Spilde, Gene	12B	Big Timber	Sweet Grass	Republican
Staigmiller, John B.	18	Eden Rt., Great Falls	Cascade	Democrat
Steele, John W.	26	1129 Jackson, Missoula	Missoula	Democrat
Stimatz, Lawrence G.	23	1615 C St., Butte	Silver Bow	Democrat
Stratton, Scott B.	18	504 22nd St. N., Great Falls	Cascade	Republican
Swan, Miles L.	17	Rte. 2, Highwood	Chouteau	Republican
Teeple, Randall	31	Rte. 2, Box 1602, Libby	Lincoln	Democrat
Ulmer, Walter J.	7	121 S. Merriam, Miles City	Custer	Republican
Warfield, William S. IV	14	Hoffman Rt., Livingston	Park	Republican
Watt, Robert D.	26	451 Kensington, Missoula	Missoula	Democrat
Wayrynen, Ray J.	23	1800 Florence, Butte	Silver Bow	Democrat
White, Robert S. (Bob)	11	RR 2, Lewistown	Fergus	Republican
Whitney, Earl	1	Box 291, Ekalaka	Carter	Republican
Williams, Pat	23	1728 Thornton, Butte	Silver Bow	Democrat
Williams, W. G. Bill	16	Toston	Broadwater	Republican
Wolf, Kenneth M.	20A	142 5th Ave. N., Shelby	Toole	Republican
Woodard, Hubert E.	9	P. O. Box 1831, Billings	Yellowstone	Republican
Worden, H. O. "Bill"	26	208 Pattee Canyon Drive, Missoula	Missoula	Republican
Yardley, Dan	14	P. O. Box 482, Livingston	Park	Democrat
Zimmer, Wm. H.	30	Olney	Flathead	Democrat

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140		175	An Act Repealing Sections 84-5601, 84-5602, 84-5603, 84-5604, 84-5605, 84-5607, 84-5608, 84-5609, 84-5610, 84-5611, 84-5612, 84-5613, 84-5614, 84-5615, 84-5616, 84-5617, 84-5618, 84-5619, 84-5620, 84-5621, 84-5622, and 84-5623, R.C.M. 1947, and Providing for Annual License Fees and for Annual Licensing of Wholesalers and Retailers of Cigarettes, and for the Payments of the Costs of Enforcement of State Cigarette Laws; and Providing Procedures for the Collection of the Tax Imposed by Section 84-5606, R.C.M. 1947; and Providing for Penalties for Violations of This Act, and Providing for the Administration of This Act; and Providing Revenue for the General Fund of the State of Montana.	383
141		285	An Act Creating an Interim Committee to Conduct a Comprehensive Study of the Administration and Operation of the Montana Highway Department in Cooperation With the Highway Commission; Specifying an Immediate Effective Date.	394
142		287	An Act to Require Corporations to File Reports of Changes in Federal Taxable Income, to Provide for Extending the Time for Assessment of Tax When the Required Reports are not Filed as Prescribed and to Require the Filing of Copies of Federal Income Tax Returns Upon Request by the State Board of Equalization; Amending Sections 84-1508.2 and 84-1517, R.C.M. 1947.	396
143		308	An Act to Amend Section 84-1503, R.C.M. 1947, to Prohibit Taxpayers From Arbitrarily Changing a Method of Allocating or Apportioning Income to Gain a Tax Advantage and Deleting the Requirement That the State Board of Equalization Publish Once a Year All Rules and Regulations Relating to Section 84-1503, R.C.M. 1947.	398
144		313	An Act Amending Section 92-707, R.C.M. 1947, to Reduce the Time That a Disability Must Continue From Six (6) Weeks to One (1) Week for Compensation to be Paid From the Date of Injury When an Employee Has no Wife, Child, Father, Mother, Brother or Sister Residing Within the United States Who Would Be Entitled to Compensation in Case of His Death, and to Reduce the Time That a Disability Must Continue From Three (3) Weeks to One (1) Week for Compensation to Be Paid From the Date of Injury When an Employee Has a Beneficiary or a Major or Minor Dependent Residing Within the United States.	399
145		340	An Act Making Permanent the State Law Enforcement Communications System; Providing for an Administrative Committee to Administer the Provisions of the Act; Providing for Duties of the State Attorney General in Administering the Act; Providing for Charges to be Established and Providing for Disposition of Moneys Collected.	400
146		402	An Act Relating to the Long-Range Building Program; Increasing the Maximum Amount of Bonds Which May Be Issued for Such Purposes; Increasing the Maximum Interest Rates Thereon to Five and One-Half Per Centum (5½%) Per Annum; Amending Sections 79-2202 and 79-2205, R.C.M. 1947, and Providing an Effective Date.	403
147		408	An Act Allowing the State Board of Equalization, In Its Discretion, to Issue a Waiver of Inheritance Tax in the Event of the Death of any Person Leaving Any Real Property or Personal Property, or Both, in Joint Tenancy With a Surviving Spouse if the Value of the Property of the Decedent is Less Than the Inheritance Exemption Allowed By Law to the Surviving Spouse.	406

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148		428	An Act Amending Section 79-602, R.C.M. 1947, to Clarify the Purposes for Which the State Controller May Authorize State Agencies to Establish and Maintain Contingent Revolving Accounts.	406
149		430	An Act Amending Section 11-2206, R.C.M. 1947, to Authorize the Creation of Special Improvement Districts Unless a Protest Against the Same is Made By the Owners of More Than Fifty Percent of the Property Affected.	407
150		434	An Act to Amend Section 22-108, R.C.M. 1947, to Shorten From One Year to Six Months the Time Within Which a Woman May File Her Renunciation and Elect to Take Against the Will of Her Deceased Husband.	409
151		458	An Act to Amend Section 89-324, R.C.M. 1947, to Reduce the Weather Modification Permit Fee to One Percent (1%).	410
152		461	An Act Amending Sections 15-2202, 15-2285, 15-22-104, 15-22-109, 15-22-110 and 15-22-121, R.C.M. 1947, in the Montana Business Corporation Act and Section 15-2383, R.C.M. 1947, in the Montana Nonprofit Corporation Act; Defining "Registered Agent;" Providing That No Tax Clearance Certificate Is Needed Before Filing a Decree of Dissolution in an Action Brought by the Attorney General; Providing That Certain Documents Be Certified Rather Than Authenticated; Providing That Certain Filing Fees Include the Fee for Issuing Mandatory Certificates and Deleting Two Contradictory Fee Schedules; and Providing for an Immediate Effective Date Upon Passage and Approval.	418
153		476	An Act Amending Section 4-240, R.C.M. 1947, to Provide for a More Equitable Apportionment of the Liquor Tax Paid to Counties and Used for Law Enforcement.	418
154		506	An Act to Amend Section 25-403, R.C.M. 1947, By Increasing From Three Dollars ($3) Per Day to Five Dollars ($5) Per Day the Compensation for Jurors in Courts not of Record.	419
155		34	An Act to Amend Sections 31-123 and 31-146, R.C.M. 1947, Changing the Word "Supervisor" to "Chief" When Referring to the Chief of the Montana Highway Patrol; and Making Driving Under the Influence of any Drug to a Decree Which Renders Him Unsafe to Drive a Motor Vehicle as an Offense for Revocation of Driver License.	420
156		39	An Act Amending Section 40-3314, R.C.M. 1947, Relating to Conduct of Insurance Examinations, Providing That Such Examination Be Made Available at the Offices of the Insurance Commissioner in Helena, Montana, at Times Within His Discretion, but at Least Once a Month.	421
157		75	An Act to Amend Section 26-204, R.C.M. 1947, Making it Unlawful to Subscribe to any Fish and Game License Application Containing a Material False Statement, and Making False Statement, and Making Such Application and any License Issued Pursuant to it Void.	422
158		80	An Act Providing for the Apprehension and Detention of a Child Released From the Custody of one of the State Juvenile Facilities to the Supervision, Custody and Control of the Aftercare Division of the Department of Institutions, Who Has Violated the Terms of His or Her Aftercare Agreement.	423
159		88	An Act to Provide a Penalty for Untimely Filing of Mine or Well Producing Gas or Petroleum Net Proceeds Tax Statement of Yield, and the Collection Thereof, and to Provide for an Extension of Time For Such Filing; Amending Sections 84-6202 and 84-6213, R.C.M. 1947.	424
160		106	An Act to Amend Section 93-801-5, R.C.M. 1947, to Delete Therefrom the Words "Unless Held in a Custodial or Fiduciary Capacity or" to Authorize the Reproduction of Records Held in a Custodial or Fiduciary Capacity Subject to the Same Provisions and Restrictions as are Applicable to Reproduction of Other Business and Public Records.	426
161		127	An Act to Amend Section 11-2705, R.C.M. 1947, to Provide That Property Owners Adjacent on Either Side Within	

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			the Same Block of an Area for Which a Zoning Regulation Change Is Proposed May Protest Against the Change.	427
162		139	An Act Amending Section 4-116 of the R.C.M. 1947, Eliminating the Requirement of a Signed Purchase Order on Purchase of Liquor at State Retail Liquor Stores; Provided That No Delivery Shall Take Place Until the Purchaser Has Paid the Purchase Price.	428
163		154	An Act to Amend Section 84-4191, R.C.M. 1947, by Increasing the Deferred Payment Interest Rate Provided Therein From Four Percent (4%) to Eight Percent (8%) Per Annum.	428
164		156	An Act to Repeal Section 81-1709, R.C.M. 1947, Requiring Lessees of Oil and Gas Leases and Assigns to Furnish Bonds.	429
165		188	An Act Designating the State Board of Health as the Agency to Administer State Matching Funds to be Used for the Construction of Water Pollution Control Facilities.	430
166		224	An Act to Amend Section 26-105, R.C.M. 1947, Increasing the Per Diem for Members of the State Fish and Game Commission From Fifteen Dollars ($15) to Twenty Dollars ($20) Per Day, and Increasing the Annual Maximums From One Thousand Five Hundred Dollars ($1,500) to Two Thousand Dollars ($2,000) Per Annum for the Chairman and From One Thousand ($1,000) to One Thousand Five Hundred Dollars ($1,500) for the Other Commission Members.	430
167		241	An Act to Amend Section 66-803, R.C.M. 1947, Relating to Requirements for Practicing or Teaching Cosmetologists or Operating a School of Cosmetology, by Adding Thereto a Requirement That Applicants to Take the Examination to Practice or Teach Cosmetology Must Be Either a Graduate of High School or Possess an Equivalent of a High School Diploma Recognized by the State Superintendent of Public Instruction; Adding Additional Qualifications for an Applicant to Take an Examination to Teach Cosmetology; and Providing That a Teacher or Student Teacher May Not Practice Cosmetology on the Public in a School.	431
168		356	An Act to Amend Section 75-3801, R.C.M. 1947, Relating to Elections for Additional Levies for School Purposes and Deleting the Requirement That Electors at Such Elections Be Registered.	435
169		370	An Act Amending Sections 53-901 and 53-902, R.C.M. 1947, By Reducing the Time Period to Forty-Eight (48) Hours When a Vehicle May Be Left Parked or Standing Upon the Right-of-Way of a Public Highway.	437
170		385	An Act to Amend Section 92-902, R.C.M. 1947, Relating to the Minimum Assessment to be Paid to the Industrial Accident Board at the Time of Filing of Proof of Solvency Under the Workmen's Compensation Act of Montana, Plan Number One, Providing for a Minimum Assessment in the Amount of Two Hundred Dollars ($200) Per Year.	438
171		416	An Act Deleting the Provision Concerning the Fee the Clerk of the District Court is to Charge in Naturalization Proceedings Because the Fees Presently Fixed By Congress Control to the Exclusion of State Legislation; Amending Section 25-210, R.C.M. 1947, Specifying an Immediate Effective Date.	438
172		480	An Act Requiring Persons Purchasing Hunting, Fishing and Trapping Licenses to Possess a Wildlife Conservation License, and Providing That Fees for Such Purchases Be Deposited With the State Treasurer in the Earmarked Revenue Fund to the Credit of the State Fish and Game Commission in Accordance with the Provisions of Section 26-121, R.C.M. 1947.	439
173		495	An Act to Amend Section 75-506.1, R.C.M. 1947, Increasing the Number of Indians From Forty-Eight (48) to Ninety-Six (96) Who May Be Selected for Attendance at the Units of the Montana University System Without Payment of Fees.	440
174	128		An Act Amending Section 15-2290 By Adding a Sub-Paragraph (e) Authorizing Jurisdiction of Courts to Liquidate	

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			the Assets and Affairs of Corporations Which Were Dissolved Under Corporate Laws Effective Prior to the Effective Date of Chapter 198, Laws of Montana 1967, and Amending Section 15-2295 Authorizing the Court in Such Proceedings to Make an Order and Decree of Final Distribution and Liquidation, Discharge Receivers and Discharge all Surviving Directors of Such Dissolved Corporations From Their Duties and Responsibilities as Trustees for the Creditors and/or Shareholders of Such Corporations and Providing an Effective Date.	441
175	143		An Act Amending Section 59-701, R.C.M. 1947, Relating to Fiscal Year and Financial Reports, Requiring State Agencies to Prepare Fiscal Financial Statements and Reconciliations Within Thirty-One Days After the Close of Each Fiscal Year and Providing for Distribution of the Financial Reports as Prescribed by the State Controller.	444
176	187		An Act to Amend Sections 3-2301, 3-2306, 3-2307, 3-2310 Revised Codes of Montana, 1947, Relating to Definition of Egg Dealers' License Fee: Eggs Unfit for Human Food: Regulation of Imported Eggs, and Rules and Regulations for Enforcement of Act.	445
177	199		An Act Amending Section 16-912, R.C.M. 1947, to Provide for Salary Increases and an Increase in Mileage Payments to County Commissioners in Counties of the First, Second, Third and Fourth Class; and to Provide for an Annual Salary of Four Thousand Dollars and an Increase in Mileage Payments for County Commissioners in Counties of Other Than the First, Second, Third and Fourth Class.	447
178	208		An Act Amending Section 16-1904, R.C.M. 1947, Relating to County Budgets to Eliminate Therefrom Certain Provisions Prohibiting Appropriations in County Budgets From Exceeding By More Than Five Per Cent the Amount Appropriated in the Budget Approved for the Preceding Fiscal Year.	448
179	311		An Act Amending Section 75-3413, R.C.M. 1947, to Provide That Reimbursements to School Districts for Transportation Costs Shall not be Withheld by the Superintendent of Public Instruction if Buses Have Been Inspected as Provided By Law; and Requiring the Highway Patrol to Perform the Annual Inspections of School Buses at Least Thirty Days Prior to the Beginning of the School Term and Reinspection of the Buses, if Necessary, Before the Beginning of the School Term.	452
180		122	An Act to Provide That a Dealer Who Applies for Registration or Re-Registration of a Motor Vehicle is Considered a Purchaser; Amending Section 84-406, R.C.M. 1947.	454
181		118	An Act to Establish a State Motor Vehicle Pool and for the Storage and Maintenance of State Owned Vehicles.	456
182		260	An Act to Provide That Motor Vehicle Insurance Must Provide That Reimbursement for a Total Loss of the Vehicle Be Based on the Actual Replacement Value of the Vehicle and not on a Book Value.	456
183	201		An Act Providing Home Instruction and Transportation for Crippled Children Outside of the State of Montana: Providing for Payment From School Districts to Out-of-State Agencies in the Case of Out-of-State Attendance of Handicapped Children; Amending Sections 75-1406 and 75-5003, R.C.M. 1947.	457
184		215	An Act to Amend Chapter 41, Title 69, of the R.C.M. 1947, as Amended, By Adding Thereto a New Section to be Numbered 69-4110.1; Establishing the State Department of Health as the Sole and Official State Agency to Administer the State Program for Comprehensive Health Planning, and Authorizing it to Prepare a Plan for Comprehensive State Health Planning; Authorizing Said Department to Cooperate With All Other Persons and Entities That Have an Interest in Public Health Problems and Needs; and Designating and Authorizing Said Department as the Sole and Official Agency of This State to Accept, Receive, Expend and Administer Funds Now Available or Which May Become Available to the State of Montana for the Preparation and Administration and Supervision of the	

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185		265	An Act Providing That a Weed Control District Be Formed in Every County; Amending Section 16-1713, R.C.M. 1947, by Eliminating the Language Referring to City and Town District; and Repealing Sections 16-1709, 16-1710, 16-1711, 16-1712 and 16-1723, R.C.M. 1947.	461
186		79	An Act to Amend Section 26-119, R.C.M. 1947, Permitting the State Fish and Game Commission to Contract for the Construction of Projects Costing Less Than Five Thousand Dollars ($5,000) but More Than One Thousand Dollars ($1,000) and to Obtain Plans and Specifications, Give Notice, Receive Bids and Accept Performance Bonds, and Further Permitting the Commission to Contract for the Construction of Projects Costing Less Than One Thousand Dollars ($1,000) Without Providing for Plans or Specifications, Notice, Competitive Bidding or Performance Bonds.	462
187		295	An Act to Amend Section 32-3304, R.C.M. 1947, as Amended by Chapter 197, Laws of 1965, by Striking Therefrom Reference to Equipment Used in Hauling Ready-Mix Concrete; and Providing for a New Section to be Numbered 32-3304.1, Providing for the Annual Payment and Collection on Trucks, Truck-Tractors, Trailers and Semitrailers Used Exclusively in Hauling Ready-Mix Concrete of a Fee Equal to Fifty-Five Per Cent (55%) of the Fees Provided in Schedules I and II Contained in Sections 32-3301 and 32-3302.	464
188		395	An Act to Amend Section 32-1122, R.C.M. 1947, to Provide That a Motor Vehicle Which Has Been Loaded at a Location Where No Scale Exists Can Be Moved to the First Open State Scale and There Adjust or Reduce the Load on Such Vehicle Without Penalty.	465
189	95		An Act Providing That Minors May Give Legal Consent to Hospitals, Public Clinics or Physicians for Diagnosis and Treatment for Pregnancy or Venereal Disease; That Such Consent Shall Be Binding on the Minor and Not Subject to Later Disaffirmance By Reason of Such Minority; That the Consent of no Other Person Shall Be Necessary in Order to Authorize Care or Services Provided to Such Minor or Minor's Child; That the Physician or Physicians May, in Their Sole Discretion, Give or Withhold Information Concerning Facts That Minor Patients are Pregnant or Have Venereal Disease; That No Information Shall Be Given By Hospitals, Public Clinics or Physicians to any Spouse, Parent, Custodian or Guardian of any Minor Patient in Cases Where Said Minor Patient is Found not to be Pregnant or not Afflicated With Venereal Disease; That Act Applies to Minors Who Profess to be in Need of Medical Services Whether Their Suspicions of Pregnancy or Venereal Disease Are Subsequently Medically Substantiated; Providing That Any Consent Given by a Minor Under This Act Following Delivery or Other Termination of Pregnancy Shall Not Include Consent to any Surgery Not Directly Connected With the Pregnancy; Providing That Hospitals, Public Clinics and Physicians Who Provide Care or Services Under the Terms of This Act Shall Incur No Civil or Criminal Liability, Except That Such Immunity Shall Not Apply to Negligent Acts or Omissions.	466
190	100		An Act Amending the Montana Motor Carrier Act Exempting the Transportation of Newspapers, Newspaper Supplements, Periodicals, or Magazines From the Provisions of This Act; Exempting From the Provisions of the Act Tow Trucks and Wreckers Designed and Exclusively Used in Towing Abandoned, Wrecked or Disabled Vehicles or While Such Vehicles Are Rendering Assistance to Abandoned, Wrecked or Disabled Vehicles; Exempting Ambulances; Amending Section 8-101, R.C.M. 1947.	468
191	122		An Act Amending Section 40-3512 to Prevent Discrimination With Regards to Race, Color, or National Origin in Property, Casualty and Surety Insurances; R.C.M. 1947.	470
192	131		An Act Amending Section 93-1906, R.C.M. 1947, to Change the Salaries of Court Reporters From Eight Thousand Eight Hundred Dollars to Nine Thousand Two Hundred Dollars Per Year.	471

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194	169		An Act to Allow Contractors Under Contracts With the State of Montana, or any Department, Agency or Political Subdivision Thereof, to Deposit Certain Governmental Obligations with the Treasurer of the State of Montana in Substitution for That Portion of the Payments Otherwise Due to Such Contractors Under State Contracts Which Are Retained by the State of Montana, or any Department, Agency or Political Subdivision Thereof, Pursuant to the Terms of Such State Contracts.	475
195	175		An Act to Amend Section 28-119, R.C.M. 1947, to Provide for the Treatment, Disposal, Removal or Reduction of Fire Hazards Created by Sawmilling Waste; and to Provide for Disposal Other Than Burning.	477
196	220		An Act Amending Section 60-125, R.C.M. 1947, Relating to the Oil and Gas Conservation Commission of the State of Montana; Increasing the Compensation of Commission Members From Fifteen Dollars Per Day to Twenty Dollars Per Day.	478
197	221		An Act to Amend Sections 82-1924, 82-1925, and 82-1926, R.C.M. 1947, to Provide That All Contracts of the State of Montana, Agencies Thereof, Political Subdivisions Thereof, School Districts and Other Public Corporations for Materials, Supplies, Equipment, Construction, Repair and Public Works, Including Contracts Involving Funds Obtained From the Federal Government Unless Expressly Prohibited by the Laws of the United States or Regulations Adopted Pursuant Thereto, Shall Be Awarded to the Lowest Responsible Bidder who is a Resident of or has its Principal Place of Business in the State of Montana Whose Bid Is Not More Than Three Percent Higher Than That of the Lowest Responsible Bidder Who Is Not A Resident of the State of Montana.	479
198	283		An Act Amending Section 25-306, R.C.M. 1947, to Increase Salaries of Justices of the Peace in Certain Townships.	482
199	164		An Act to Provide for the Reclamation of Strip Coal Mined Lands and Declaring a Penalty.	483
200		10	An Act to Amend Section 87-149, R.C.M. 1947, by Providing for the Elimination of the Fifteen Dollars ($15) Maximum Wage Earnable Before Benefits Are Lost and Extending the One (1) Day's Work or Eight (8) Hour Limitation to Twelve (12) Hours.	492
201		70	An Act to Amend Section 26-301, R.C.M. 1947, Making it Unlawful to Use Self-Propelled Vehicles to Intentionally Concentrate, Drive, Rally, Stir Up or Harass Game Animals, Game Birds, and Fur-Bearing Animals.	494
202		99	An Act Amending Section 84-4908, R.C.M. 1947, Relating to the Alternative Standard Deduction Allowed in Computing Net Income, and Providing an Effective Date.	497
203		167	An Act Amending Section 11-1919 R.C.M. 1947, Relating to Payments to Fire Department Relief Associations to Allow an Alternative Method of Computing Payments.	497
204		234	An Act to Establish the Montana Board of Hearing Aid Dispensers for the Licensing of Dealers and Persons Engaged in the Sale and Fitting of Hearing Aids; to Provide for the Regulation of Selling and Fitting Hearing Aids to the Public; and to Provide for Penalties for Violation of the Act.	499
205		250	An Act to Repeal Section 5-1124, R.C.M. 1947, Relating to Maintenance of Offices of Consolidated Banks.	510

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207		263	An Act to Amend Section 53-101, R.C.M. 1947, to Permit the Use of Electronic Recording and Storage Media for the Maintenance of Records by the Registrar of Motor Vehicles.	511
208		279	An Act to Amend Section 1-324, R.C.M. 1947, Providing That Hearings on Rates, Fares, Charges, Classifications and Rules of Air Carriers May Be Vacated When No Written Protests or Requests Are Received.	513
209		291	An Act Relating to Metropolitan Sanitary and/or Storm Sewer Districts Requiring County Commissioners, by Resolution, After Public Hearing, to Establish and Fix Rental Charges for Operation and Maintenance of the System and for Operation and Maintenance of a Sewage Treatment Plant; Amending Section 16-4416, R.C.M. 1947.	514
210		297	An Act Amending Sections 11-3901, 11-3906 and 11-3907, R.C.M. 1947, Pertaining to the Urban Renewal Law and Providing for Neighborhood Development Programs.	515
211		307	An Act Amending Section 14, Chapter 287, Laws of 1967, Compiled As Section 32-4714, R.C.M. 1947, Relating to Zoning of Certain Lands Adjacent to the Interstate and Primary System Highways, by Extending the Applicability of Chapter 287 for an Additional Period of Two (2) Years From January 1, 1970, Until January 1, 1972.	525
212		310	An Act to Provide for Relocation Assistance for Persons Affected by Real Property Acquisitions for State Highway Purposes, and Amending Section 93-9913, R.C.M. 1947.	526
213		312	An Act to Amend Section 53-109, R.C.M. 1947, to Increase the Value Limitation From One Thousand Dollars ($1,000) to Four Thousand Dollars ($4,000) of Motor Vehicles, and/or Semitrailers, and/or Trailer Houses Registered in the Name of a Decedent, the Title to Which May Be Transferred by the Decedent's Surviving Spouse or Other Heir in Those Cases in Which Probate of the Decedent's Estate is not Necessary.	531
214		318	An Act to Provide Financial Assistance to Enable Secondary Schools to Offer a Course in Driving Education By Earmarking a Percentage of Fines Assessed in all Offenses Involving a Violation of a State Statute or a City Ordinance Relating to the Operation of a Motor Vehicle to the Automobile Driver Education Account in the Earmarked Revenue Fund By Requiring the State of Montana to Annually Contribute to This Fund Five Percent (5%) of all Moneys Received from the Collection of Motor Vehicle Driver's License Fees; Providing That a Percentage of the Fine Specified in This Act Collected From Persons Arrested By Highway Patrolmen Be Allocated to the Automobile Driver Education Account in the Earmarked Revenue Fund; Amending Sections 31-114, 32-1131, and 94-801-2, R.C.M. 1947; and Repealing Sections 75-5301 through 75-5309, R.C.M. 1947; and Providing an Effective Date.	534
215		323	An Act to Amend Section 32-4303, R.C.M. 1947, to Allow Designation of a Controlled Access Highway Without Federal Requirement.	539
216		403	An Act Increasing the Membership of Local Boards of Health, Establishing Terms of Office, and Permitting Local Boards to Control Sewage Disposal; Amending Sections 69-4504, 69-4505, 69-4506 and 69-4509, R.C.M. 1947.	540
217		423	An Act to Provide That Firemen Need Not Be Qualified Voters in a City for Membership In That Fire Department; and Amending Section 11-1905, R.C.M. 1947.	543
218	155		An Act Amending Section 93-1107, R.C.M. 1947, Relating to the Judges' Retirement System and Redefining Final Salary. Senate Bill No. 155 was passed by the Constitutional majority of both houses of the 41st Legislative Assembly (Senate March 2, 1969 and House March 3, 1969) over the veto of the Governor.	543

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220		427	An Act to Amend Section 11-1024, R.C.M. 1947, Relating to Group Hospitalization, Medical, Health, Accident and/or Group Life Insurance Contracts or Plans for the Benefit of Public Employees and Their Dependents and Repealing the Present Expiration Date.	547
221		431	An Act Providing for the Establishment of an Intensive Rehabilitation Center at the Montana State Prison; Providing Standards of Admission to Such Center; Providing for the Management and Control of Such Center.	547
222		447	An Act to Amend Section 91-623, R.C.M. 1947, to Provide That the Public Administrator May Summarily Settle Estates Valued at Less Than One Thousand Five Hundred Dollars ($1,500).	548
223		473	An Act to Amend Section 79-1013, R.C.M. 1947, to Include the Montana State Highway Commission as a Reporting Agency and to Change the Reporting Date.	549
224		511	An Act to Authorize the State Board for Vocational Education to Lease Buildings and/or Lands Financed in Whole or in Part by the State to School Districts to be Used for Post-Secondary Vocational-Technical Education.	550
225		524	An Act Amending Section 77-909, R.C.M. 1947, Relating to Providing Educational Opportunities in Units of the University of Montana System for Children of Members of the Armed Forces of the United States Who Were Killed or Died as a Result of Injuries, Disease or Disability While Serving on Active Duty During World War II and/or the Korean Conflict, to Include the Vietnam Conflict.	550
226		31	An Act Providing for an All-Purpose Annual Mill Levy for Cities and Towns; Providing for a Maximum Amount of Such Levy; Amending Sections 84-4701.1 and 84-4701.2, R.C.M. 1947.	552
227		56	An Act Amending Section 10-611, R.C.M. 1947, Relating to Hearings and Judgments in Juvenile Matters, by Deleting Therefrom the Requirement for Separating InMates of the State Prison Under Twenty-One (21) From Those Who Are Over Twenty-One (21).	553
228		68	An Act to Provide Rules Governing the Defense of Double Jeopardy, Providing When Such Defense Shall or Shall not be a Bar to a Second Prosecution and Defining When Conduct Arising Out of the Same Transaction May or May Not Establish the Commission of More Than One Offense; Repealing Sections 94-4807, 94-6806, 94-6807, 94-6808 and 94-7234, R.C.M. 1947.	554
229		120	An Act Amending Section 75-4423, R.C.M. 1947, Providing That a Community College District Shall Provide Instruction in Academic, Occupational and Adult Education, Subject to Approval of the State Board of Education.	558
230		132	An Act Establishing the Limitations on the Amount of Taxes to be Assessed for General Municipal or Administrative Purposes, Providing a Levy for Parks, Swimming Pools, Skating Rinks, Playgrounds, Youth Centers and Other Purposes; Providing for a Levy for Recreational Uses; Amending Section 84-4701, R.C.M. 1947.	559
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232		210	An Act Amending Section 80-1903, R.C.M. 1947, to Provide That Forty Hours or Five Days Per Week is the Normal Work Week for Correctional Personnel at the State Prison Except in Case of Riots or Escapes.	561
233		213	An Act Amending Section 92-1101, R.C.M. 1947, to Permit the Industrial Accident Board to Prescribe the Procedure for the Payment of Premiums Under Plan No. 3 of the Workmen's Compensation Act; Amending Section 92-1103, R.C.M. 1947, to Permit the Industrial Accident Board to	

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234		227	An Act Amending Section 92-111, R.C.M. 1947, to Permit the Industrial Accident Board to Rent Suitable Quarters.	563
235		240	An Act to Amend Section 75-4426, R.C.M. 1947, to Provide That the Board of Trustees of a Community College Shall Have the Power to Borrow Money From Agencies of the Federal Government.	563
236		249	An Act to Amend Initiative Measure No. 54 Adopted by the Voters of Montana at the Election Held November 7, 1950, to Extend to June 30, 1969, the Time Limit Within Which Submission of Applications for Payment of the World War I Honorarium Must Be Made.	564
237		304	An Act Adopting the Uniform Reciprocal Enforcement of Support Act as Revised by the National Conference of Commissioners on Uniform State Laws in 1968; Providing Additional Remedies for Enforcement of Duties of Support; Providing for Criminal Enforcement by Extradition; Providing for Civil Enforcement Where Parties Reside in Different States or in Different Counties of Montana; Providing for Registration and Enforcement of Foreign Support Orders and Support Orders Issued in Different Counties of Montana; Providing for the Resolution of Paternity and Visitation Rights if Contested, and for Appeals; and Repealing Sections 93-2601-1 through 93-2601-40, R.C.M. 1947.	565
238		320	An Act to Provide for the Issue and Sale by the State Board of Examiners of Bonds in a Sum Not Exceeding One Million Five Hundred Thousand Dollars ($1,500,000) for the Purpose of Acquiring a Necessary Site for and Erecting a Warehouse and Administration Building for the Montana Liquor Control Board; Providing That Said Bonds Shall Be Payable Solely From Net Proceeds From the Operation of State Liquor Stores; Pledging and Appropriating a Portion of Such Net Proceeds to a Special Sinking Fund Account; and Providing an Effective Date.	578
239		357	An Act to Amend Section 5-527, R.C.M. 1947, Relating to Interest That May Be Charged By Banks and Providing for Charges That May Be Made By Banks With Respect to Installment Loans.	582
240		358	An Act Amending Section 80-1603, R.C.M. 1947, Relating to Assessment and Collection of Per Diem Charges for Residents of Institutions Subject to Per Diem Charges; Providing for an Investigation by the Department of Institutions; Providing for Cooperation of Other Agencies, State and Private, in Such Investigations; Empowering the Department to Administer Oaths and Issue Subpoenas; Providing the State of Montana a Claim Against the Estate of a Resident or Responsible Person, for Per Diem Charges; Providing the Claim of the State Shall Not Have Priority Against the Necessary Amount to Support Surviving Children; Providing for Collection of Such Claim by the Attorney General of the State of Montana; Providing for Appeals.	583
241		387	An Act Amending Section 25-227, R.C.M. 1947, by Increasing Fees for Board of Prisoners to Two Dollars and Twenty-Five Cents ($2.25) for the First Category and Increasing Fifty Cents ($.50) for Each Successive Category.	585
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			stitute a Single Unitary Business Operation May File a Consolidated Corporation Income Tax Return; and Further Require That to Request Use of a Consolidated Return at Least Eighty Percent of all Classes of Stock of Each Corporation Must Be Owned Directly or Indirectly By One or More Members of the Affiliated Group.	587
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247		246	An Act Amending Section 32-21-130, R.C.M. 1947, Pertaining to Lighting Equipment on Certain Vehicles; Requiring That Slow-Moving Vehicles or Equipment, Any Animal-Drawn Vehicle, or Any Other Machinery, Designed for Use At Speeds of Less Than Twenty-Five (25) Miles Per Hour, Including Road Construction or Maintenance Machinery, Shall Have Displayed Thereon a Reflectorized Emblem; Describing Said Emblem; Providing That Slowmoving Vehicles Should Permit Overtaking Vehicles to Pass; Providing for Penalty for Violations.	591
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320		508	An Act Providing for the Adoption of Orderly Procedures for Establishing Desirable Employment Practices for Registered Professional and Licensed Practical Nurses Employed in Health Care Facilities; Establishing Procedures for Developing Employment Standards; Providing Rule Making Authority to the State Board of Health.	778
321		525	An Act to Provide for the Support of the Government of Montana for the Years 1969 and 1970, Providing a Severability Clause and an Effective Date.	782
322		85	An Act to Fix Salaries for the District Court Judges; Amending Section 93-303, R.C.M. 1947.	784
323		521	An Act to Amend Section 25-501, R.C.M. 1947, as Amended, to Increase Salaries of Certain Elected State Officials.	785
324		100	An Act Amending Section 84-1505, R.C.M. 1947, Increasing the Interest Rate From Six Percent Per Annum to Nine Percent Per Annum for Failure to Remit Corporation License Taxes When Due; and Providing an Effective Date.	785
325		136	An Act Amending Section 75-4425, R.C.M. 1947, to Change the Method of Computing the Average Number Belonging for Participation in the Foundation Program and Equalization Fund By Community Colleges; and Providing That Community Colleges Shall Be Considered School Districts for Certain Purposes.	787
326		137	An Act Providing for Registration, Exemptions, Transfer of Ownership, and Operation of Snowmobiles, Establishing Certificates of Ownership, Fees, and Charges, and Providing Penalties for any Violation of This Act.	789
327		182	An Act to Amend Section 71-242, R.C.M. 1947, as Amended, to Enable the State of Montana to Conform with the United States Social Security Act Which Would Allow the State Department of Public Welfare to Issue Rules and	

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			Regulations to the County Welfare Departments Requiring the Use of the Declaration Method for the Purpose of Determining Eligibility Regardless of any Other Investigative Provisions Under the Welfare Act and for all Types of Assistance.	794
328		274	An Act Amending Section 84-2209, R.C.M. 1947, to Provide for Waiver of Penalty Assessed for Nonfiling of Crude Oil Statement.	796
329		329	An Act to Establish a Policy for the Making of Premium Rates for Workmen's Compensation Insurance Issued Under Plan Number 2 of the Workmen's Compensation Act, Sections 92-1001 through 92-1012, R.C.M. 1947, and Plan Number 3 of the Workmen's Compensation Act, Sections 92-1101 through 92-1123, R.C.M. 1947, and to Insurance or Guaranty by Surety Insurers of the Obligations of Employers Under the Workmen's Compensation Act; Providing for Rate Making Factors, Rate Standards and Uniformity of Rates, and Providing for Rate Filing, Exemptions From Filing and Effective Date of Filing; Providing for Disapproval of Rate Filing by the State Auditor, Ex Officio Commissioner of Insurance; Providing for Disapproval of Filing After Consideration by the Commissioner of Insurance; Providing for the Scope of Disapproval Power by the Commissioner of Insurance; Providing for Adherence to Filing; Relating to Excess Rates, Deviations From Such Rates and Defining the Power of the Commissioner of Insurance Relative Thereto; Requiring Rating Organization Membership and Application of the Laws of Montana as to Certain Powers of the Commissioner of Insurance and to Certain Public Employment; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing for Filings by Rating Bureaus with the Commissioner of Insurance, Including Workmen's Compensation Insurance; Requiring Membership in a Rating Organization of All Insurers Writing Workmen's Compensation Insurance and Requiring Membership of the Montana State Industrial Accident Board, Without Election, on any Committee of a Rating Organization of Which it is a Member; Providing for Application to the Commissioner of Insurance for Percentage Increase or Decrease of Premiums and Providing Procedure Therefor; Amending Section 92-1101, R.C.M. 1947, Relating to Payment of Premiums by Employers Under Plan Number 3 and Referring to Industrial Accident Board's Membership in a Rating Organization; Amending Section 92-1104, R.C.M. 1947, Relating to Industrial Accident Board's Power to Determine Premiums and Referring to its Membership in a Rating Organization; and Amending Section 92-1105, R.C.M. 1947, Relating to the Intent and Purpose of Plan Number 3, and Referring to the Industrial Accident Board's Membership in a Rating Organization.	797
330		334	An Act to Establish within the Department of Agriculture of the State of Montana an Agricultural Marketing Coordinator and Empoweer the Coordinator to Analyze, Advise, and Make Necessary Recommendations in the Field of Agricultural Marketing.	805
331		343	An Act Amending Section 16-1803, R.C.M. 1947, to Provide for an Increase From Two Thousand Dollars ($2,000) to Four Thousand Dollars ($4,000) as the Amount Over Which Boards of County Commissioners Must Publish Notice Calling for Bids in Contracts for the Purchase of Vehicles, Machinery, Equipment, Materials, Supplies and Two Thousand Five Hundred Dollars ($2,500) for Building Construction.	808
332		376	An Act Providing for the Voluntary Sterilization in Certain Cases; Creating a State Board of Eugenics to Administer the Act; Setting Forth the Powers and Duties of Such Board; Setting Standard for the Application of the Act.	810
333		466	An Act to Amend Section 11-2010, R.C.M. 1947, to Broaden the Powers of Volunteer Fire Districts to Include the Power to Contract With Private Parties to Extend Fire Protection to Private Property Lying Within Five (5) Miles of the Farthest Limits of the District; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing in Effective Date.	814

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334		497	An Act to Amend Section 53-136, R.C.M. 1947, to Include Alteration or Forgery of any Certificate of Title.	817
335		499	An Act Amending Section 16-4522, R.C.M. 1947, Pertaining to County Water and Sewer Districts to Allow the District to Incur a Bonded Indebtedness When Sixty Percent (60%) or More of the Votes Cast at the Election are in Favor of Doing so.	817
336		503	An Act to Create in the Earmarked Revenue Fund of the State of Montana a Motorboat Certificate Identification Account; Requiring All Fees Collected Under Section 69-3504, R.C.M. 1947, to be Deposited in This Account and be Used Only for the Administration and Enforcement of Title 69, Chapter 335, R.C.M. 1947, and Requiring the Fish and Game Commission to Enforce the Provisions of Title 69, Chapter 35, R.C.M. 1947; Amending Sections 69-3504 and 69-3517, R.C.M. 1947.	818
337		517	An Act to Provide for the Acquisition and Designation of Real Property by the State, Counties and Municipalities of Real Property for Use as Permanent Open-Space Land.	821
338		40	An Act to Provide a Comprehensive Revision of the Act Regulating the Practice of Medicine Within the State of Montana and by Stating the Purposes of Said Act; By Defining the Practice of Medicine and by Providing Exemptions From Licensing Requirements; by Creating the State Board of Medical Examiners and Defining the Qualifications of, and Appointment of Members to, Said Board and by Setting the Term of Office of the Members of Said Board; by Providing for the Organization, the Policy, the Powers and Duties, the Meetings and the Records of the Board and for the Compensation of the Members of Said Board; by Defining the Kinds of Certificates for Licensure and for the Issuance and Renewal Thereof; by Defining the Practice Authorized by the Certificates for Licensure; by Providing for Licensure by Reciprocity or Endorsement; by Defining the Qualifications for Licensure to Practice Medicine and Providing Limitations; by Defining Approved Medical School, Approved Internship and Approved Residency; by Establishing License Fees and Limiting Authority to Impose Same; by Providing for Licensure to Practice Medicine and for Applications for License by Examination, and Otherwise, and for the Issuance or Refusal of License; by Prohibiting Practice Prior to Licensure; by Providing for the Validation of Licenses to Practice Medicine and Surgery Heretofore Issued; by Defining Unprofessional Conduct and by Providing for the Revocation or Suspension of Licenses and for the Disciplining of, and the Procedure for Disciplining License Holders; by Prohibiting the Practice of Medicine Without a License and Providing Penalties Therefor, by Providing for Annual Registration, and Fees Therefor, and Limiting Authority to Impose Such Fees; by Establishing the Board of Medical Examiners' Fund and Providing for Deposits Therein and Withdrawals Therefrom and for Reports in Connection Therewith; by Providing for the Transfer of Records, Supplies and Moneys From the State Board of Medical Examiners Hereby Abolished to the New Board Hereby Created; by Providing for Injunctive Relief in Enforcing Said Act and the Manner of Charging Violations Thereunder; by Providing for the Issuance of Subpoenas Including Manner of Issuance, Fees and Service Thereof, and Penalties for Failure to Obey Same; by Providing for Notice of Change of Address or Name of Licensee; by Providing for Service of Notice or Other Process on Licensees; by Providing a Saving Clause; and by Repealing Sections 66-1001 through 66-1009, Both Inclusive, of the R.C.M. 1947, Relating to Practitioners of Medicine and Surgery and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing That Said Act Shall Be and Become Effective on Passage and Approval.	826
339		58	An Act to Amend Section 31-149, R.C.M. 1947, Establishing the Revocation Period for Driving While Under the Influence of any Drug as Sixty (60) Days for the First Offense and One (1) Year for Subsequent Offenses Within a Five (5) Year Period; Establishing the Duration Period of Other Revocations.	850
340		97	An Act Authorizing the Gift of all or Part of a Human	

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			Body After Death for Specified Purposes and Repealing Sections 69-2311, 69-2312, 69-2313 and 69-2314, R.C.M. 1947.	852
341		174	An Act to Provide a Safety Code for the State of Montana, Establishing a Department of Safety, Providing for a Safety Director to be Appointed by the Industrial Accident Board, Providing That the Industrial Accident Board Have Supervision Over Every Place of Employment and Full Power to Enforce all Laws and Orders Concerning Safety in Places of Employment, Prescribing Methods for Enforcement and Administration of This Act; Amending Section 92-101, R.C.M. 1947; and Repealing Sections 41-1701 through 41-1707, 92-1201 through 92-1210 and 92-1214 through 92-1222, R.C.M. 1947.	857
342		200	An Act to Amend Section 11-1932, R.C.M. 1947, to Increase the Minimum Compensation of Firemen in Cities of the First and Second Class.	869
343		262	An Act Amending Section 91-4414, R.C.M. 1947, to Provide Increased Exemptions Under the Inheritance Tax Law.	870
344		359	An Act to Amend Section 26-104, R.C.M. 1947, by Providing That All Drawings for Elk Permits Under a Special Season Shall Be Held in the City or Town Which Has Suitable Accommodations for the Persons Who Will Attend the Drawing Nearest to the Area to be Hunted but in no Case Shall the Drawing Be Held in a City or Town More Distant Than the County Seat Nearest to the Area to be Hunted.	872
345		450	An Act Amending Section 89-801, R.C.M. 1947, by Reserving all the Unappropriated Water From Certain Enumerated Streams for Fishing and Wildlife Purposes Except for Future Appropriations for Municipal and Individual Water Supplies.	879
346		558	An Act to Raise the Annual Tax on Gross Earnings of Freight Line Companies to Five and One-Half Percent (5½%); Amending Sections 84-4819 and 84-4820, R.C.M. 1947; Providing an Effective Date.	881
347		98	An Act Amending Sections 84-4914 and 84-4924, R.C.M. 1947, Relating to the Filing of Income Tax Returns; Increasing the Interest Rate on Delinquent Income Taxes From Six Percent (6%) Per Annum to Nine Percent (9%) Per Annum; and Providing an Effective Date.	884
348		117	An Act to Provide for the Numbering of Every Motorboat or Vessel Propelled by Machinery; to Provide for Issuance of Decals; to Provide for a Yearly Renewal of Such Number and Decal; and Amending Sections 69-3503 and 69-3504, R.C.M. 1947.	887
349		159	An Act to Place Control of Refuse Disposal Areas Under the State Department of Health Instead of the State Board of Health; Requiring the State Department of Health to Approve Plans Which an Applicant for a License May Have Drawn; Making it Permissive for the Local Boards of Health to Grant a License; and Amending Sections 69-4004, 69-4005, 69-4007, 69-4008, and 69-4009, R.C.M. 1947.	891
350		236	An Act Amending Sections 59-1001 and 59-1002, R.C.M. 1947, to Increase Vacation Leave Benefits for Public Employees.	893
351		271	An Act to Amend Section 71-509, R.C.M. 1947, to Provide for Assistance Payments in Behalf of Such Needy Defendent Child or Children to Another Person Found Interested in or Concerned with the Welfare of Such Child or Children Because the Recipient Receiving the Assistance Grant in Behalf of the Child or Children was Dissipating and Failing to Utilize the Assistance Grant for the Needs of the Child or Children or Refuses or Fails to Accept Employment or Training.	895
352		303	An Act Amending Sections 66-904, 66-905, 66-906, 66-909, 66-910, 66-913, 66-917, 66-920 through 66-924, R.C.M. 1947, Being Sections of the Montana Dentistry Regulation Act, to Provide Fiscal Year Accounting for the State Board of Dental Examiners, Deleting the Regular Annual Meeting Date, Raising the Dental Examination Fee to Fifty Dollars,	

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			Providing for Payment of Fees for Each Subsequent Examination for Dentists and Dental Hygienists; Providing for an Emergency Fund From Annual License Fees; Providing Per Diem and Travel Allowance for Board Members; Increasing Grounds for Revocation or Suspension of Dental License; Raising License Fees of Dental Hygienists; Amending Reciprocity Requirements for Admission of Dental Hygienists; Authorizing the Board to Adopt Rules Governing Auxiliary Personnel.	897
353		324	An Act to Amend Section 66-2508, R.C.M. 1947, Pertaining to Fee for Annual Extension of Licenses of Physical Therapists; Providing for an Increase in Such Fee From Two Dollars ($2) to Five Dollars ($5).	915
354		344	An Act to Amend Section 53-118, R.C.M. 1947, Relating to Application for Motor Vehicle Dealer's License.	915
355		436	An Act to Amend Section 84-1801.1, R.C.M. 1947, Increasing the Gasoline License Tax From Six and One-Half Cents (6½c) to Seven Cents (7c) Per Gallon, Effective for a Period Ending June 30, 1971; Providing for Dealer Allowance for Evaporation and Other Loss; Amending Section 84-1840, R.C.M. 1947, Relating to Disposition of Funds Collected Under the Gasoline License Tax Providing That Up to Three Million Dollars ($3,000,000) of the State Highway Account in the Earmarked Revenue Fund Shall Be Expended by the State Highway Commission for the Construction, Reconstruction, Maintenance or Repair of Roads, Streets and Alleys in Counties and Incorporated Cities and Towns in Each Fiscal Year, and Providing That Such Funds May Be Disbursed Only for Work Designed and Supervised by the State Highway Department; Repealing all Acts and Parts of Acts in Conflict Herewith, and Providing a Severability Clause.	919
356		528	An Act Amending Section 11-1815, R.C.M. 1947, to Establish the Minimum Salary of Chiefs of Police in First Class Cities From Four Hundred Fifty Dollars ($450) Per Month to Six Hundred Fifty Dollars ($650) Per Month.	924
357		535	An Act to Authorize the State Board for Vocational Education to Transfer Title to Buildings and/or Lands to School Districts for Use for Post-Secondary Vocational-Technical Education.	924
358		562	An Act Providing That the Tax on Net Insurance Premiums Shall Be Two and Three-Quarters Percent (2¾%) of the Premiums for the Calendar Years 1969 and 1970; Amending Section 40-2821, R.C.M. 1947.	925
359		564	An Act to Increase the Oil Producers' License Tax From Two Percent (2%) of the Gross Value of the First Four Hundred Fifty (450) Barrels to Two and One-Tenth Percent (2.1%) and Increase the Tax on the Gross Value of the Production Above Four Hundred Fifty (450) Barrels From Two and One-Half Percent (2½%) to Two and Sixty-Five Hundredths Percent (2.65%); Providing for Payment of Said Tax in Full by the Person Required to Pay and for Settlement Thereafter With Other Owners of the Gross Proceeds; Amending Section 84-2202, R.C.M. 1947; Providing an Effective Date.	928
360		608	An Act to Amend Section 91-4411, R.C.M. 1947, by Imposing an Estate Tax on Those Estates Subject to Tax by the Internal Revenue Code of 1954.	930
361		222	An Act to Provide a Uniform Agricultural Seed Law Defining Seeds and Regulating the Sale and Labeling of Seeds by Amending Section 3-803 and by Repealing Sections 3-801, 3-802, 3-816, 3-817, 3-818, 3-819, R.C.M. 1947.	932
362		277	An Act to Provide for Regulation of Insurance Rates and Rating Organizations, Advisory Organizations and Joint Underwriting and Joint Reinsurance; and Repealing Sections 40-3601 through 49-3633, R.C.M. 1947.	942
363		382	An Act Relating to Nursing Homes and Nursing Home Administrators; Providing for the Licensing of Nursing Home Administrators; to Create the Montana State Board	

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			of Examiners for Nursing Home Administrators; Fixing its Membership, and Prescribing its Powers, Duties and Functions; Providing Requirements for Licensure as a Nursing Home Administrator; Providing for License Fees; Creating the State Board of Nursing Home Administrators' Account; Containing a Repealing Clause and an Effective Date.	958
364		398	An Act to Amend Section 75-1813, R.C.M. 1947, Relating to the Provision of an Optional Basis to School Districts for Consolidation or Annexation; Such Optional Basis Providing the School Districts with a Basis of Consolidation or Annexation with or Without the Assumption of Bonded Indebtedness; and Providing an Effective Date.	965
365		415	An Act to Provide That a Prayer May Be Used to Open the School Day in the Public Schools.	972
366		301	An Act to Establish a Statewide Building Construction Standards; Amending Sections 66-2416, 66-2802, 69-4117, 69-5212, 69-5213, 69-5216, 82-1202, 82-1202.1, and 82-1202.2, R.C.M. 1947; Repealing Sections 66-2424, 66-2818, 69-2101 through 69-2103, 69-3701 through 69-3719, and 75-3103, R.C.M. 1947.	972
367		360	An Act to Provide for a "Unitary Method" of Airline Flight Property Assessment; Amending Sections 84-6401 and 84-6404, R.C.M. 1947.	990
368	323		An Act for the Codification and General Revision of the Laws Relating to the Election Laws of the State of Montana; Repealing Sections 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, 23-2501 through 23-2507, R.C.M. 1947.	992
369		454	An Act Providing for the Amount of the Distributor's Gasoline License Tax; Payment of the Tax by Distributors; Establishing a Refund Procedure; Licensing of Gasoline Distributors; Empowering the State Board of Equalization to Establish Regulations; Providing for Enforcement of the Act by Penalties; and Repealing Sections 84-1801 through 84-1814, 84-1818 through 84-1823, 84-1828, and 84-1829, R.C.M. 1947, Relating to the Gasoline Dealer's License Tax.	1084
370		504	An Act to Provide a Privilege Tax Upon Possession and Use of Tax-Exempt Property; Providing Exceptions Thereto; Fixing the Rate of Such Tax and Credit Against Tax; Providing for Assessment, Collection and Distribution of Said Taxes; Providing Penalties for Failure to Pay the Tax and Preserving Constitutional Exemption ,and Providing an Effective Date.	1095
371		477	An Act to Appropriate Thirty-Five Thousand Dollars ($35,000) for Repair of the Governor's Old Mansion and to Lease Said Mansion to the City of Helena.	1097
372		607	An Act Appropriating $2,600,000 From the Earmarked Revenue Fund to Montana State University for the Construction of Physical Education, Athletic, and Recreation Facilities; Providing That All Gifts, Grants, Fees, and Earnings Available for This Facility Shall Be Deposited in the Earmarked Revenue Fund Including a Special Student Fee of not More Than $6.50 Per Academic Quarter; and Providing That the Construction Shall Begin Only Upon Approval of the Board of Education Ex Officio Regents of the Montana University System and the Affirmative Vote of a Majority of the Student Body Voting Upon the Issue.	1097

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373		612	An Act Appropriating Monies to State Agencies for Capital Projects for the Biennium Ending June 30, 1971.	1098
374		616	An Act Appropriating Moneys to the State Controller for State Agencies and Institutions for Capital and Repair Projects for the Biennium Ending June 30, 1971; Authorizing the Sale of Fourteen Million Dollars ($14,000,000) of Building Bonds by the Montana State Board of Examiners; Authorizing the Transfer of the Bond Sale Proceeds to the "Long-Range Building Program Account, Bond Proceeds and Insurance Clearance Fund" and Authorizing the Transfer of $1,525,000 in Federal Funds to the "Long-Range Building Program Account, Bond Proceeds and Insurance Clearance Fund," and Appropriating $1,500,000 for the Purchase of the Highway Commission Land and Building, Capital Complex.	1101
375		613	An Act Authorizing the State Board of Examiners to Borrow up to Two Million Dollars ($2,000,000) for Land Acquisition for Public Buildings at the State Capitol; for the Reconstruction, Improvement, Remodeling, Repair and Furnishing of the State Capital Building of the State of Montana at Helena, Montana; for Construction of a Supreme Court and Law Library Building; Providing for the Issuance of Bonds, Indentures and/or Notes; Dedicating Income from Capitol Building Land Grant for Repayment of Loans; Enumerating the Power and Duties of the State Board of Examiners in Carrying out the Provisions of This Act; and Providing for a Select Committee of the House of Representatives and Senate Relating Thereto.	1106
376	177		An Act to Create a Legislative Fiscal Review Committee for the Study of State Government Fiscal Matters; Specifying an Immediate Effective Date.	1109
377		615	An Act to Provide for the Issue and Sale by the State Board of Examiners of Bonds in a Sum not Exceeding $4,675,077 for the Purpose of Acquiring a Necessary Site for and Erecting and Equipping a State Highway Commission Headquarters Building and Complex; Providing That Said Bonds Shall Be Payable Solely From Net Proceeds from Gasoline Taxation; Pledging and Appropriating a Portion of Such Net Proceeds to a Special Sinking Fund Account; and Providing an Effective Date.	1112
378		618	An Act Appropriating Forty-Five Thousand Dollars ($45,000) from the Agricultural Experiment Account 2115 in the Earmarked Revenue Fund to the Board of Examiners for the Biennium Ending June 30, 1971, for the Acquisition of Real Property; Appropriating as much as may be Necessary from the Agricultural Experiment Station Account 2115 in the Earmarked Revenue Fund to the Board of Examiners for Interest and Other Costs to the Purchaser for the Acquisition of Real Property; Authorizing the Board of Examiners to Enter Into Contracts for Deed to Approximately 93.69 Acres of Land in Gallatin County and Approximately 150 Acres of Land in Flathead County.	1115

APPROPRIATIONS

House Bill	Title	Page
1	An Act Appropriating Money for the Operation of the Forty-first Legislative Assembly.	1119
4	An Act Appropriating Five Thousand Dollars ($5,000) to the Legislative Council to Reimburse Members of the Legislative Assembly for Expenses in Attending a Meeting of the Western Conference of the Council of State Governments to be Heldin Glacier Park in 1969.	1119
5	An Act Appropriating Sixteen Thousand Six Hundred Fifty Dollars ($16,650) for State of Montana Dues to the Council of State Governments for the 1969-1971 Biennium.	1119
33	An Act Appropriating Moneys for the Operation of the Legislative Council for the Biennium Ending June 30, 1971.	1120
48	An Act Appropriating Moneys for the Biennium Ending June 30, 1969 to the Department of Administration to Complete the Addition to the Veterans' Pioneer Memorial Building.	1120

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House Bill	Title	Page
81	An Act to Appropriate $2,500 from the General Fund to the State Fish and Game Commission for the Biennium Ending June 30, 1971 for the Purpose of Developing a Comprehensive Statewide Plan for the Preservation of Historic Sites.	1121
112	An Act Appropriating Moneys for the Operation of the Legislative Audit Committee for the Biennium Ending June 30, 1971.	1121
319	An Act Appropriating Twenty-Four Thousand Dollars ($24,000) from the General Fund to the State Board of Equalization for the Fiscal Period Ending June 30, 1969, for Operation and Capital Expenses.	1121
369	An Act Appropriating Moneys for the Biennium Ending June 30, 1969, to the Department of Administration to Complete the New Facility at the Montana Veterans' Home.	1122
544	An Act to Appropriate Five Hundred Thirteen Dollars Seventy-Four Cents ($513.74) from the General Fund as an Unsettled Claim to Reimburse the Boulder River School and Hospital for a Loss Incurred by Theft; Specifying an Immediate Effective Date.	1122
582	An Act Appropriating Six Thousand Dollars ($6,000) from the Highway Account in the Earmarked Revenue Fund to the Highway Commission to Reimburse Members of the Legislative Interim Committee on Highways for Expenses Incurred in a Study of the Highway Commission During the 1967-1968 Interim.	1122
583	An Act to Appropriate all Monies Remaining in the University 1949 Building Bond Sinking Account and all Monies to be Deposited in That Account in the Sinking Fund, after all Outstanding Bonds Have Been Redeemed and all Expenses of Liquidating the Bonds Have Been Paid, from That Account in the Sinking Fund to the School Equalization Aid Account in the Earmarked Revenue Fund; Amending Section 6, Chapter 249, Laws of 1947, to Authorize the Appropriation.	1123
590	An Act to Appropriate Money for the Licensing and Examining Boards and Commissions of the State Government for the Biennium Ending June 30, 1971, and Providing Other Matters Properly Relating Thereto.	1124
596	An Act to Appropriate Monies to Certain State Institutions for the Biennium Ending June 30, 1971.	1128
599	An Act to Appropriate Monies to the Units of the Montana University System, the Agricultural Experiment Station, the Cooperative Extension Service, the Western Interstate Commission for Higher Education, the Office of Executive Secretary of the Montana University System and the School for the Deaf and Blind for Personal Services, Operation, and Capital Expenditures for the Biennium Ending June 30, 1971.	1142
600	An Act to Appropriate Fifty Thousand Dollars ($50,000) from the General Fund to the Legislative Council for the Legislative Fiscal Review Committee for the Biennium Ending June 30, 1971.	1146
609	An Act Appropriating Monies to State Agencies for Capital Projects for the Biennium Ending June 30, 1971.	1146
611	An Act Appropriating $2,000,000 to the State Controller from the Capitol Building Program Account, Bond Proceeds and Insurance Clearance Fund, of Which $250,000 is for Land Acquisition for Public Buildings at the Capitol of the State, $1,000,000 is for Construction of a Supreme Court and Law Library Building, and $750,000 is for Renovation of Legislative Areas of the State Capitol Building for the Biennium Ending June 30, 1971.	1147
617	An Act to Appropriate Moneys for Vocational Education for the Biennium Ending June 30, 1971.	1148
619	An Act to Appropriate $25.000 from the Oil and Gas Conservation Commission Account in the Earmarked Revenue Fund to the State Treasurer for Deposit in the General Fund.	1149

THIS LISTING IS FOR CROSS REFERENCE. THE FOLLOWING APPROPRIATIONS ARE ALSO LISTED UNDER CHAPTER NUMBERS SINCE THEY SEEMED TO CONTAIN SOME PERMANENT LAW.

Chap.	Senate Bill	House Bill	Title	Page
58	51		An Act Appropriating Moneys from the Montana Judges' Retirement Account to the Public Employees' Retirement Board for Reimbursement of the General Fund for Costs of Administering the Judges' Retirement Fund During the Fiscal Biennium Ending June 30, 1969.	120

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Chap.	Senate Bill	House Bill	Title	Page
293		610	An Act Appropriating One Hundred Twenty-seven Thousand Five Hnudred Nine Dollars ($127,509) from the General Fund and Two Hundred Five Thousand Nine Hundred Nine Dollars ($205,909) from the Federal and Private Revenue Fund to the Commisson Created by This Act for the Biennium Ending June 30, 1971, for the Conduct of a Study of the Executive Branch of State Government; Establishing a Nine Member Commission on Reorganization of the Executive Branch of State Government; Specifying an Immediate Effective Date for a Part of This Act.	735
371		477	An Act to Appropriate Thirty-Five Thousand Dollars ($35,000) for Repair of the Governors' Old Mansion and to Lease Said Mansion to the City of Helena.	1097
372		607	An Act Appropriating $2,600,000 from the Earmarked Revenue Fund to Montana State University for the Construction of Physical Education, Athletic, and Recreation Facilities; Providing That All Gifts, Grants, Fees, and Earnings Available for This Facility Shall Be Deposited in the Earmarked Revenue Fund Including a Special Student Fee of not More Than $6.50 Per Academic Quarter; and Providing That the Construction Shall Begin Only Upon Approval of the Board of Education Ex Officio Regents of the Montana University System and the Affirmative Vote of a Majority of the Student Body Voting Upon the Issue.	1097
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REFERENDUM MEASURE

(Adopted by the people at the November 5, 1968 General Election)

REFERENDUM MEASURE NO. 65

CHAPTER 50

MONTANA SESSION LAWS 1967

An Act Submitting to the Electorate at the November 1968 General Election the Question of Whether or Not the Legislative Assembly Shall Levy a Property Tax, in Addition to Any Levy Authorized by Section 9, Article XII of the Montana Constitution, of Not to Exceed Six (6) Mills on the Taxable Value of All Real and Personal Property Each Year for Ten (10) Years Beginning With the Year 1969 and Appropriate the Revenue From That Levy for the Support, Maintenance and Improvement of the Montana University System.

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SESSION LAWS

CHAPTER 1

An Act Relating to the Organization and Procedures of the Forty-First Legislative Assembly; Prescribing the Duties and Compensation of Legislative Employees; and Specifying an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Determination of salaries—duties.

Section 1. For positions where a salary range is shown in this act, the salary shall be fixed by the house or senate committee on legislative administration. Persons employed who do not have previous experience shall be paid the minimum salary set by this act. Persons who have been previously employed by the legislative assembly shall be paid the minimum amount plus one dollar ($1) additional per day for each previous session worked. Experience in working for the thirty-ninth and fortieth legislative assemblies shall be considered in computing previous experience, but experience in working prior to the thirty-ninth legislative assembly shall not be considered.

Secretary of the senate and chief clerk of the house.

Section 2. (1) The secretary of the senate and chief clerk of the house of representatives shall receive twenty-five dollars ($25) to twenty-seven dollars ($27) per day each. Their duties are to:

(a) have custody of all records, bills, documents, and other papers;

(b) supervise the keeping of the journal, engrossing, and enrolling, and the handling of bills and resolutions;

(c) deliver to the secretary of state at the close of each session, the journal, billbooks, resolution books, and all copies of introduced and engrossed bills and resolutions;

(d) collect from the chairman or secretaries of all standing and special committees the minutes of such committees and deliver them to the Montana historical society.

Sergeants-at-arms.

(2) The sergeants-at-arms of each house shall receive twenty-five dollars ($25) to twenty-seven dollars ($27) per day each. Their duties are to:

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(a) maintain order under the direction of the presiding officer;

(b) serve all processes;

(c) receive, distribute, and have custody of supplies;

(d) keep account of per diem, expenses, and mileage of members and employees, and prepare and submit all claims for payment;

(e) take an inventory at the close of each session of all furniture, fixtures, supplies, and other property and turn such property over to the state controller for custody until the next session. One copy of the inventory shall be kept on file in the office of the sergeant-at-arms.

Chief of engrossing and enrolling.

(3) The chief of engrossing and enrolling of each house shall receive twenty dollars ($20) to twenty-two dollars ($22) per day each. Their duties are:

(a) To engross and enroll all bills delivered to them within forty-eight (48) hours after they have been received unless further time is granted;

(b) To correct clerical errors, with the consent of the secretary of the senate or chief clerk of the house, in any bill originating in the house by which they are employed. Clerical errors such as the following may be corrected:

(i) errors in spelling,

(ii) errors in numbering sections,

(iii) adding or deleting underlining or lines through matter to be stricken,

(iv) material copied incorrectly from the Revised Codes of Montana, 1947.

The secretary of the senate and chief clerk of the house shall inform the principal author and the presiding officer in writing of all such corrections. No bill shall be corrected after engrossment.

Assistant chief of engrossing and enrolling.

(4) The assistant chief of engrossing and enrolling of each house shall receive eighteen dollars ($18) to twenty dollars ($20) per day each. They shall perform duties assigned by the persons to whom they are responsible.

Chief typist.

(5) The chief typist of engrossing and enrolling of

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each house shall receive eighteen dollars ($18) per day each. They shall perform duties assigned to them by the chief of engrossing and enrolling of the house where they are employed.

Chief proofreader.

(6) The chief proofreader of engrossing and enrolling of each house shall receive eighteen dollars ($18) per day each. They shall perform duties assigned by the chief of engrossing and enrolling in the house where employed.

Code proofreaders.

(7) Code proofreaders shall receive fourteen dollars ($14) to fifteen dollars ($15) per day each. They shall perform duties assigned by the chief proofreader of engrossing and enrolling in the house where employed.

Bills coordinators.

(8) The bills coordinators of each house shall nineteen dollars ($19) to twenty-one dollars ($21) per day each. They shall perform duties assigned by the bills committee by which they are employed.

Secretaries to committees.

(9) Secretaries to the judiciary, finance and claims, and appropriations committees shall receive nineteen dollars ($19) to twenty-one dollars ($21) per day each. Secretaries to other standing and special committees shall receive sixteen dollars fifty cents ($16.50) to eighteen dollars fifty cents ($18.50) per day each. They shall perform duties assigned to them by the chairman of the committee by which they are employed.

Secretaries to secretary of senate and chief clerk of house.

(10) Secretaries to the secretary of the senate and chief clerk of the house shall receive nineteen dollars ($19) to twenty-one dollars ($21) per day each. They shall perform duties assigned by the person by whom they are employed.

Secretaries to president of senate, speaker of house, floor leaders and sergeant-at-arms.

(11) Secretaries to the president of the senate, speaker of the house, and to the majority and minority floor leaders and the secretary-payroll clerk to the sergeant-at-arms in each house shall receive nineteen dollars ($19) to twenty-one dollars ($21) per day each. They shall perform duties assigned by the person by whom they are employed.

Assistants.

(12) The assistant secretary of the senate, assistant chief clerk of the house, and assistant sergeants-at-arms shall receive nineteen dollars ($19) to twenty-one dollars ($21) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

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Secretaries to assistants.

(13) Secretaries to the assistant secretary of the senate and assistant chief clerk of the house shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Clerks and chief stenographer.

(14) The bill clerk, journal clerk, chief stenographer, and chief mimeograph clerk of each house are immediately responsible to the secretary of the senate or chief clerk of the house. They shall receive nineteen dollars ($19) to twenty-one dollars ($21) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Assistant clerks and chief stenographer.

(15) The assistant bill clerk, assistant journal clerk, assistant chief stenographer, and assistant chief mimeograph clerk of each house shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Mimeograph clerks.

(16) Mimeograph clerks shall receive fifteen dollars ($15) to seventeen dollars ($17) per day each. They shall perform duties assigned by the chief mimeograph clerk of the house where employed.

Reading clerks.

(17) Reading clerks shall receive fifteen dollars ($15) to seventeen dollars ($17) per day each. They are immediately responsible to the secretary of the senate or chief clerk of the house and shall perform duties assigned by the persons to whom they are responsible.

Stenographers

(18) Stenographers shall receive fifteen dollars ($15) to seventeen dollars ($17) per day each. They shall perform duties assigned by the persons to whom they are responsible.

Supply clerks.

(19) Supply clerks shall receive fifteen dollars ($15) to seventeen dollars ($17) per day each. They shall duties assigned by the sergeant-at-arms of the house where they are employed.

Chief mailing clerk.

(20) The chief mailing clerk of each house shall receive nineteen dollars ($19) to twenty-one dollars ($21) per day each. They are immediately responsible to the secretary of the senate or chief clerk of the house.

Assistants.

(21) Assistant chief mailing clerks shall receive fif-

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teen dollars ($15) to seventeen dollars ($17) per day each. They shall perform duties assigned by the chief mailing clerk of the house where employed.

Mailing clerks.

(22) Mailing clerks shall receive fifteen dollars ($15) per day each. They shall perform duties assigned by the chief mailing clerk of the house where employed.

Proofreaders.

(23) Proofreaders shall receive thirteen dollars ($13) to fifteen dollars ($15) per day each. They shall perform duties assigned by the persons to whom they are responsible.

Chaplain.

(24) The chaplain of each house shall receive ten dollars ($10) per day each. Their duties are to open the sessions each day with a prayer.

Pages.

(25) Pages shall receive eight dollars ($8) per day each. They shall perform duties assigned by the persons to whom they are responsible.

Housekeeping.

(26) Doorkeepers, watchmen, janitors, and parking attendants shall receive twelve dollars fifty cents ($12.50) to fourteen dollars fifty cents ($14.50) per day each. They shall perform duties assigned by the sergeant-at-arms in the house where employed.

Guides.

(27) Legislative guides shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They shall perform duties assigned by the sergeant-at-arms in the house where employed.

Typists.

(28) Typists shall receive fourteen dollars ($14) to sixteen dollars ($16) per day each. They shall perform duties assigned to them by the persons to whom they are responsible.

Journal typist.

(29) The journal typist of each house shall receive sixteen dollars ($16) to eighteen dollars ($18) per day each. They shall perform duties assigned by the secretary of the senate or chief clerk of the house.

Other legislative employees.

(30) Any other legislative employee shall receive a salary set by the committee on legislative administration in the house where employed but not more than eighteen dollars ($18) per day.

Term of employment.

Section 3. The salaries specified in this act shall be paid for every day of the legislative session during

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which the employee is employed. The presiding officer of each house may authorize, when necessary, the continued employment and compensation of employees for a period not to exceed fifteen (15) days after the adjournment of a session of the legislative assembly.

Salaries effective.

Section 4. The salaries specified in this act are effective only for employees of the forty-first legislative assembly.

Modifications of positions and salaries.

Section 5. The positions and salaries specified in this act may be modified by joint action of the committees on legislative administration in each house if persons are employed jointly by the house and senate. Salaries for persons employed jointly shall be fixed by the committees on legislative administration meeting in joint session at amounts not to exceed twenty-five dollars ($25) per day.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved: January 14, 1969.

CHAPTER 2

An Act to Amend Section 16-4209, R.C.M. 1947, Relating to Creation of a State Mosquito Control Advisory Committee.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-4209, R.C.M. 1947, is amended to read as follows:

State mosquito control advisory committee.

"16-4209. **State mosquito** *control* **advisory committee —members—duties.** (a) There is hereby established a state mosquito *control* advisory committee which shall *have representation from: state entomologist, state department of health,* and the departments of agricultural engineering, agronomy and soils of Montana state *university.* The state *entomologist* shall be the chairman of said committee.

Duties.

(b) It shall be the duty of such committee to advise the commissioners of any county relative to the creation of mosquito control districts within such county and *upon re-*

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quest to advise the boards of such districts in connection with their control programs.

(c) Annually on or before the first (1st) day of February, the board of each district shall submit to *the state entomologist and state department of health* for review and advice a written report of its operations for the preceding year and a written plan covering its control program for the ensuing year.''

Report.

Approved: January 24, 1969.

CHAPTER 3

An Act Amending Section 91-628, R.C.M. 1947, to Change the Minimum Fee for Public Administrators from Five Dollars ($5) to Twenty-five Dollars ($25).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-628, R.C.M. 1947 is amended to read as follows:

Amending clause.

"91-628. **Compensation of public administrator.** The public administrator shall receive as full compensation for his services, including attorney's fees, a commission of fifteen *percent (15%)* of the total amount of money received by him in any estate provided for in this act; provided, that in no case shall the compensation be less than *twenty-five dollars($25)*."

Compensation of public administrator.

Approved: January 24, 1969.

CHAPTER 4

An Act Amending Section 79-2313, R.C.M. 1947 to Clearly Indicate That the Audit Charge Made by the Legislative Auditor for Auditing Agencies Financed by Earmarked Funds Shall Be Not More Than Seventy-Five Dollars Per Audit Staff Person Per Day.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-2313, R.C.M. 1947 is amended to read as follows:

Amending clause.

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Audit charge.

"79-2313. **Audit charge against earmarked money.** (1) As used in this section:

"Earmarked money."

(a) "Earmarked money" means a fund, account or any other money, other than general fund money, but excluding trust or agency money, that is earmarked for the support of a particular agency, program or service.

"Audit charge."

(b) "Audit charge" means the actual cost of the audit of a state agency by the legislative auditor as computed by the legislative auditor, but not more than seventy-five *($75) per audit staff person* per day.

Transfer of funds.

(2) At the request of the legislative auditor, a state agency shall transfer to the general fund from earmarked moneys under its control an amount equal to the audit charge multiplied by the percentage that the annual expenditure of earmarked moneys is of the total annual expenditure of the state agency.

Approved: January 29, 1969.

CHAPTER 5

An Act Amending Section 43-902, R.C.M. 1947, Changing the Mailing Fee of Fifty Dollars for Legislative Documents Mailed First Class Mail to Seventy-Five Dollars and Providing for Mailing by Ordinary Mail; Increasing the Mailing Fee for Legislative Documents Mailed Air Mail From Eighty to One Hunderd Dollars; and Deleting References to Memorials.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 43-902, R.C.M. 1947, is amended to read as follows:

Schedule of fees—complete set.

"43-902. **Schedule of fees.** (a) Any person desiring to receive one complete set of the proceedings of the legislature shall pay to the secretary of state one hundred dollars *($100)*. Upon receipt of such money the secretary of state shall transmit the name of said person to the clerk of the house of representatives and the secretary of the senate, who shall supply such person with a complete set of the proceedings of the legislature. Any person desiring to receive more than one set of the proceedings of the legis-

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lature shall pay one hundred dollars *($100)* for each additional set.

Mailing fees.

(b) In addition to the fee for each complete set of the proceedings specified by subsection (a) of this section, any person who requests that a set of the proceedings be mailed shall pay an additional fee to the secretary of state for each complete set that is mailed of *seventy-five dollars ($75)* if a person requests that the proceedings be mailed *ordinary* mail and *one hundred dollars ($100)* if a person requests that the proceedings be mailed air mail.

Single copies.

(c) Any person desiring to receive single copies of mimeographed bills, mimeographed resolutions, printed bills, printed resolutions, or amendments thereto shall pay to the clerk of the house of representatives or the secretary of the senate twenty-five cents *($.25)* per single copy.

(d) Any person desiring to receive single copies of status sheets or status of proceedings shall first pay to the clerk of the house of representatives or the secretary of the senate ten cents *($.10)* per single copy.

Accounting for receipts.

(e) The chief clerk of the house of representatives and the secretary of the senate shall be responsible for accounting for all moneys received by them and shall transmit such funds received to the secretary of state before 5 p.m. each weekday. Any moneys received by them during Saturday, Sunday or evening sessions of the legislative assembly shall be held by them in a safe place and transmitted to the secretary of state upon the next business day.

(f) The secretary of state shall account for all funds collected under this act and transmit such funds to the treasurer of the state of Montana, who shall credit them to the general fund."

Effective immediately.

Section 2. This act is effective on passage and approval.

Approved: January 29, 1969.

CHAPTER 6

An Act to Amend Section 5-523, R.C.M. 1947, relating to Limitations on Loans Made by State Banks.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. Section 5-523, R.C.M. 1947, is amended to read as follows:

Limitations on loans—liabilities—what included therein—reduction when excessive.

"5-523. (6014.48) **Limitations on loans—liabilities—what included therein—reduction when excessive.** The total loans to any person, copartnership or corporation by any bank, including loans to a copartnership, and loans to the several members thereof, shall at no time exceed twenty per centum (20%) of the amount of the unimpaired capital and surplus of such bank. The discount of bills of exchange drawn in good faith against actual existing values, the discount of bankers, acceptances of other banks, the discount of commercial or business paper actually owned by the person negotiating the same, and the obligations of the United States or general obligations of any state or of any political subdivision thereof, or obligation issued under authority of the Federal Farm Loan Act, shall not be considered as money borrowed, nor shall the foregoing limitations apply *to loans and investments secured by obligations of the United States having a value of one hundred percent (100%) of the amount thereof or* to loans made on warehouse receipts and bills of lading, when such warehouse receipts and bills of lading cover nonperishable commodities of the marketable value of at least one hundred twenty per cent (120%) of the amount loaned thereon. Loans or obligations shall not be subject under this section to any limitation based upon such capital and surplus to the extent that they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase the same, made by any federal reserve bank or by the United States or any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

The combined liabilities of the several members of any firm, copartnership or unincorporated association to the loaning bank shall be included in the liabilities of such firm, copartnership or unincorporated association, and the liabilities of such firm, copartnership or unincorporated association shall be included in the liabilities of any member thereof in determining the foregoing limitations.

When in the judgment of the superintendent of banks, the liabilities of any corporation or the combined liabilities of any corporation and one or more of its stockholders to

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any bank are excessive, he shall require the reduction thereof to such limits and within such time as he shall prescribe."

Approved: January 29, 1969.

CHAPTER 7

An Act Restricting the Operation of State Fish and Game License Agents to a Single Business Location as Stated in the Agents' Certificates of Appointment.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-223, R.C.M. 1947, is amended to read as follows: Amending clause.

"26-223. **Appointments nontransferable—revocation—oaths.** Appointments of license agents shall be nontransferable, and *each appointment* shall be valid only *at the single location of the business as stated on the certificate of appointment. Such appointments* may be summarily revoked at any time by the state fish and game *director upon discontinuance of the business at the stated location or for* noncompliance with the provisions of this act or other regulations. Duly appointed license agents are hereby authorized to administer oaths to applicants for hunting and fishing licenses." Appointments nontransferable—revocation—oaths.

Section 2. This act is effective upon its passage and approval. Effective immediately.

Approved: January 29, 1969.

CHAPTER 8

An Act to Approve and Legalize and Adopt as Prima Facie the Laws of Montana the Second Replacement of Part 2 of Volume Number 1 and Replacement Volume Number 2 (In Two Parts) of the Revised Codes of Montana, 1947, as Published by the Publishers and Distributors of Said Codes.

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Be it enacted by the Legislative Assembly of the State of Montana:

Approval of second replacement of part 2 of volume 1 and replacement volume 2 of R.C.M., 1947.

Section 1. The Second Replacement of Part 2 of Volume Number 1 and Replacement Volume Number 2 (in two parts) of the Revised Codes of Montana, 1947, as published by the publishers and distributors of said Revised Codes of Montana, 1947, are hereby, as to both form and substance, approved, legalized and adopted as prima facie the laws of Montana now in force and effect with respect to the title and subjects covered thereby. The sections of said replacement volumes may be cited as sections of the Revised Codes of Montana, 1947, without reference to the session laws which enacted new matter or to the session laws which have amended the sections of the Revised Codes of Montana, 1947, as included in the original compilation of the Revised Codes of Montana, 1947.

Validating clause.

Section 2. Nothing herein contained shall be deemed as invalidating or in any manner affecting the legality of any act or thing heretofore or hereafter done by authority of any enactment which is not included in said replacement volumes and nothing herein contained shall affect the existence, validity, or enforcement of any act, enactment, or title thereof, statute, or code section, omitted from or erroneously, or incorrectly set forth in said replacement volumes.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved: January 29, 1969.

CHAPTER 9

An Act to Amend Section 84-724, R.C.M. 1947, Changing the Age of Tax Records That May Be Destroyed by the State Board of Equalization From More Than Five (5) Years Old to More Than Three (3) Years Old.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-724, R.C.M. 1947, is amended to read as follows:

Destruction of tax records—procedure.

"84-724. **Destruction of tax records authorized—procedure.** Notwithstanding the provisions of any other

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chapter of this code, the state board of equalization is authorized to destroy tax records more than *three (3)* years old, as shall be determined to be of no further value.

Authorization for destruction of tax records shall be by unanimous vote of the members of the state board of equalization entered upon an authenticated list of records authorized to be destroyed. A copy of the authorization and authenticated list shall be entered in the minutes of the board by its secretary."

Section 2. This act is effective on its passage and approval. **Effective immediately.**

Approved: January 29, 1969.

CHAPTER 10

An Act to Provide That Salmonid Fish and Eggs Imported Into Montana Be Certified Free of Certain Diseases, And Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless such importations are shipped direct from the hatchery where reared to destination, and are accompanied by a written certification that the importation or source is free of protozoan myxosoma cerebralis, the causative agent of so-called "whirling disease," and such other infectious organisms as the state fish and game commission may specify. Such certification shall be made in the state of origin by a fish pathologist designated for this purpose by the United States secretary of the interior or by the state fish and game director. Certification of the source may be by inspection of the hatchery of origin conducted annually or at such other times as the state fish and game director may order. If a copy of a current inspection report, certifying that the hatchery of origin is free of protozoan myxosoma cerebralis, and such other infectious organisms as the state fish and game commission may direct, **Unlawful to bring salmonid fish or eggs into state unless certified free of protozoan myxosoma cerebralis.**

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is not attached to each shipment from such hatchery, then each shipment must be inspected and certified.

Exemption provision.

Section 2. Nothing in this act shall restrict the importation and transportation of dead salmonid fish or eggs when such fish or eggs have been processed or prepared in a manner whereby all spores of the protozoan myxosoma cerebralis, and such other infectious organisms as the state fish and game commission may specify, have been killed. Salmon caught and brought directly into North America and transported into Montana for processing or sale, or any salmonid caught wild in North America shall be exempt from the requirement for certification.

Certificate requirements.

Section 3. The certificate required by this section shall consist of a statement in the English language, printed or typewritten, stating that the shipment of fish or eggs is free from protozoan myxosoma cerebralis as determined by the methods outlined in Fish Disease Leaflet 9 printed July, 1968 by the bureau of sport fisheries and wildlife, United States department of interior, and free of such other organisms as determined by such other methods as the state fish and game commission shall direct. Certificates of individual shipments will contain (1) the date and city of shipment in the state of origin and the anticipated date of arrival and city of destination in Montana, (2) carrier and carrier identification number, or truck license number if shipped by hatchery truck, (3) bill of lading number or airway bill number, if applicable, and (4) the handwritten signature, in ink, of the authorized certifying officer, and such other information as the state fish and game commission may specify.

Promulgation of rules and regulations.

Section 4. The state fish and game commission may promulgate such rules and regulations and may employ such personnel for testing and inspection as are necessary to carry out the provisions of this act.

Violation and penalty.

Section 5. Any person violating any provision of this act shall be deemed guilty of a misdemeanor and shall be punished as prescribed in section 26-324.

Effective immediately.

Section 6. This act is effective upon its passage and approval.

Approved: January 29, 1969.

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CHAPTER 11

An Act to Provide for Reimbursement to the State General Fund for the Costs of Central Services Financed From the General Fund That Are Provided to Agencies Which Operate With Non-General Fund Moneys and to Provide a Board of Review to Determine That the Amount of These Charges Is Fair and Equitable.

Be it enacted by the Legislative Assembly of the State of Montana:

"Board." Section 1. As used in this act, "board" means the state board of review.

State board of review—members. Section 2. There is in the executive branch of state government a state board of review. The board consists of the state controller, the state auditor, both acting ex officio, and a third member who shall be appointed by and serve at the pleasure of the governor. The third member may be a state officer who shall act ex officio.

Compensation of third member. Section 3. If the third member is not a state officer acting ex officio, he shall receive twenty-five dollars ($25) for every day of actual attendance at meetings of the board, together with his necessary traveling expenses in attending such meetings.

Chairman. Section 4. The state controller is chairman of the board. A member of the board may appoint a representative to act for him in carrying out the provisions of this act.

Record of proceedings. Section 5. The board shall keep a record of all its proceedings, and any member may cause his dissent to the action of the majority upon any matter to be entered upon the record.

Seal. Section 6. The board shall have a seal, bearing the following inscription: "State Board of Review". The seal shall be fixed to all writs and authentications of copies of records and to other instruments as the board directs.

Quorum. Section 7. A majority of the board constitutes a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the board. The act of a majority of the board when in session as a board is the act of the board. A vacancy in the board does not impair the right of the remaining members to exercise all the powers of the board.

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Secretary.

Section 8. The state controller shall provide the board a secretary and all other assistance necessary for the board to fulfill its duties. All costs of operating the board shall be paid from moneys appropriated to the state controller.

"Administrative costs."

Section 9. As used in this act, "administrative costs" means the amounts expended by those state agencies which costs are attributable to the operations of all state agencies and a proration of any cost to, or expense of, the state for services of facilities provided for those state agencies which costs are attributable to the operations of all state agencies, for supervision or administration of the state government, or for services to the various state agencies.

Charge of administrative costs to funds.

Section 10. The state board of review shall determine and may at any time redetermine, which funds shall be charged a share of administrative costs as to the function supported by any such fund and the amount which shall be charged against any fund as its fair share of administrative costs. These costs shall be a charge against any fund designated by the board.

Criteria for determination.

Section 11. In determining or redetermining the fair share, the board may consider such factors of cost distribution and cost estimation as it deems necessary. However, that as to the proceeds of those taxes, the use of which is restricted by Section 1b, of article XII, of the Montana constitution, the board shall assess only those administrative costs ascertained as being necessarily incurred in connection with highway purposes as set forth in that article.

Certification of costs due from each state agency.

Section 12. The board shall certify annually to the state controller the amount determined to be the fair share of administrative costs due and payable from each state agency and shall certify forthwith to the controller any amount redetermined to be the fair share of administrative costs due and payable from any state agency. The controller shall forthwith transmit to each state agency, from which administrative costs have been determined or redetermined to be due, a statement in writing setting forth the amount of the administrative costs due from the state agency, and stating that, unless a written request to defer payment is filed by the state agency with the state controller within thirty (30) days after the mailing of the statement by the controller to the state agency, the controller will direct the state treasurer to transfer the amount of the ad-

Statement to agency.

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ministrative costs from the special fund or funds chargeable therewith to the state general fund. The controller shall specify on the statement the special fund appropriations to be charged at the time transfers are made covering the administrative costs.

Special fund appropriations.

Section 13. If, upon receipt of the statement provided in section 12 of this act, the state agency does not have funds available by law for the payment of the administrative costs, or if any transfer might, if effected, result in loss to the state or to any special fund affected, of any federal funds, or would be in violation of the constitution or any law of the United States, or if it has any other reason why the payment of the costs should not be made at the time specified on the statement, the state agency shall, prior to the expiration of the thirty (30) day period referred to in the statement, file with the controller, in duplicate, a written request to defer payment of the administrative costs. The request shall set forth the reasons why the payment should be deferred. Upon receipt of a request filed because of lack of availability of funds or because of any reason other than lack of availability of funds, the controller shall forthwith transmit one (1) copy of the requset to the board; and shall defer action to effect the transfer of funds until the transfer has been approved by the board.

Request to defer payment of administrative costs.

Section 14. The board may certify at any time during the year to the state controller the amount as it determines, based upon experience of the preceding year, to be a reasonable advance for administrative costs to be made from the appropriation of each state agency supported from a fund, designated in accordance with section 10 of this act. The controller shall forthwith transmit to each state agency a statement in writing setting forth the amount of the advance, and stating that unless a written request to defer payment because of lack of availability of funds is filed by the state agency with the controller within thirty (30) days after the mailing of the statement by the controller to the state agency, the controller will transfer the amount of the advance from the special fund, or funds concerned, to the state general fund. The controller shall specify on the statement that special fund appropriation to be charged.

Certification of reasonableness—transfer of funds.

Section 15. If, upon receipt of the statement provided in section 14 of this act, the state agency does not have funds available by law for the payment of the advance, the

If funds not available, agency shall request deference of payment.

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state agency shall, prior to the expiration of the thirty (30) day period referred to in the statement, file with the state controller, in duplicate, a written request to defer payment of the advance. Upon receipt of a request, the controller shall forthwith transmit one (1) copy of the request to the board and shall defer action to effect the transfer of funds covering the advance referred to in the request until the transfer has been approved by the board. Any advance shall be applied against the state agency's fair share of administrative costs determined or redetermined as provided in section 12 and section 13 of this act. If the amount advanced exceeds the state agency's fair share of administrative costs, the controller shall transfer from the state general fund to the special fund appropriation the excess amount advanced.

Approved: January 29, 1969.

CHAPTER 12

An Act Providing for a Charge By the General Recorder of Marks and Brands for the Filing and Listing of Notices of Security Agreements and Their Disposal for Use by the Livestock Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 52-322, R.C.M., is hereby amended to read as follows:

Fees—disposition.

"52-322. **Fees—disposal of.** The general recorder of marks and brands shall charge for filing and listing such notices of security agreements the sum of *two dollars ($2)* for each recorded brand listed in each security agreement, and for filing and listing each notice of satisfaction or renewal or assignment of such security agreement, the sum of *two dollars ($2)* for each recorded brand listed therein. All fees so charged shall be paid into the earmarked revenue fund for the use of the livestock commission."

Approved: January 30, 1969.

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CHAPTER 13

An Act Providing for the Fees to Be Charged and Collected by the General Recorder of Marks and Brands, for the Recording of New Brands, Transfer of Old Brands, Re-Recording of Brands, for Certified Copies of the Same and Limitations on Expendtiure of Such Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-609, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"46-609. **Fees for recorder of marks and brands.** The general recorder of marks and brands shall charge and collect for *the* recording *of* each *new* mark or brand, *or* for recording each mark or brand *transfer or for re-recording* of each mark and brand the sum of ten dollars *($10)*, and for a certified copy of any such record and each dupulicate certificate one dollar ($1), and all fees so collected shall be paid into the earmarked revenue fund for the use of the livestock commission; providing, however, that not more than ten per cent (10%) of the net re-recording fees after all expenses of re-recording are paid, shall be expended in any one year except in case of an emergency declared by the governor." Fees for recorder of marks and brands.

Approved: January 30, 1969.

CHAPTER 14

An Act to Submit to the Electors of Montana an Amendment to Section 2, Article IX of the Montana Constitution Changing the Voting Age to Nineteen Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 2, Article IX of the constitution of the state of Montana is amended to read as follows: Amending clause.

"Section 2. Every person of the age of *nineteen (19)* years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people, and, except as hereinafter provided, upon all questions which may be submitted to the vote of the people or elec- Qualifications of voters — constitutional amendment.

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tors: First, he shall be a citizen of the United States; second, he shall have resided in this state one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law. If the question submitted concerns the creation of any levy, debt or liability the person, in addition to possessing the qualifications above mentioned, must also be a taxpayer whose name appears upon the last preceding completed assessment roll, in order to entitle him to vote upon such question. Provided, first, that no person convicted of felony shall have the right to vote unless he has been pardoned or restored to citizenship by the governor: provided, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution; provided, that after the expiration of five years from the time of the adoption of this constitution, no person except citizens of the United States shall have the right to vote."

Form of ballot.

Section 2. When this amendment is submitted to the electors of the state of Montana, there shall be printed on the ballot the full title and section 1 of this act and the following words:

"[ ] For the above amendment.

[ ] Against the above amendment."

Approved: January 31, 1969.

CHAPTER 15

An Act Amending Section 82-1910, R.C.M. 1947, to Provide That the State Controller Shall Not Approve a Claim for Printing Unless a Purchase Order Has Been Prepared Prior to Ordering the Printing or Written Approval Has Been Given by the State Purchasing Agent to Order the Printing Without Preparation of a Purchase Order.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1910, R.C.M. 1947, is amended to read as follows:

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"82-1910. **Supervision of public printing.** *(1)* The state purchasing agent shall supervise and attend to all public printing and shall prevent duplication and unnecessary printing; all forms, blanks, and documents printed for distribution to the departments of state government or state institutions shall be serially numbered and indexed by the state purchasing agent and sample copies of each thereof permanently retained in his library; and the state purchasing agent shall from time to time furnish to the public general information as to the nature, description, and official numbers of such reports as are available for public distribution. Supervision of public printing.

(2) The state controller shall not approve a claim for printing submitted by any state officer, agency, or institution unless:

(a) a purchase order has been prepared and approved by the state purchasing agent prior to ordering the printing; or

(b) written approval has been given by the state purchasing agent to order the printing without preparation of a purchase order."

Approved: February 3, 1969.

CHAPTER 16

An Act Amending Section 40-2709, R.C.M. 1947, Relating to the General Powers and Duties of the Commissioner of Insurance, Providing that the Commissioner May Impose a Fine Not to Exceed Five Thousand Dollars ($5,000) Upon Violators of the Montana Insurance Code.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 40-2709, R.C.M. 1947, be amended to read as follows: Amending clause.

"40-2709. **General powers, duties.** (1) The commissioner shall enforce the provisions of this code, and shall execute the duties imposed upon him by this code. General powers, duties.

(2) The commissioner shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

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Examinations and investigations of insurance matters.

(3) The commissioner may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

Fine.

(4) *The commissioner may, after having conducted a hearing, pursuant to section 40-2720, impose a fine not to exceed the sum of five thousand dollars ($5,000) upon a person found to have violated any provision of this code or regulation duly promulgated by the commissioner, except that the fine imposed upon agents or adjusters shall not exceed five hundred dollars ($500). Said fine shall be in addition to all other penalties imposed by the laws of this state and shall be collected by the commissioner in the name of the state of Montana. Imposition of any fine hereunder shall be an order from which an appeal may be taken, pursuant to the provisions of section 40-2725.*

Additional powers and duties.

(5) The commissioner shall have such additional powers and duties as may be provided by other laws of this state.''

Approved: February 4, 1969.

CHAPTER 17

An Act to Adopt and Implement the Multistate Tax Compact Dealing With Taxes Paid by Business Firms.

Be it enacted by the Legislative Assembly of the State of Montana:

"Multistate tax compact."

Section 1. The ''Multistate Tax Compact'' is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

Purposes.

ARTICLE I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.

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2. Promote uniformity or compatibility in significant components of tax systems.

3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

4. Avoid duplicative taxation.

ARTICLE II. Definitions. Definitions.

As used in this compact:

1. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any Territory or Possession of the United States. "State."

2. "Subdivision" means any government unit or special district of a state. "Supervision."

3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state. "Taxpayer."

4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions. "Income tax."

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety. "Capital stock tax."

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax. Gross receipts tax."

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles. "Sales tax."

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"Use tax." 8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complimentary to a sales tax.

"Tax." 9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Elements of income tax laws.

ARTICLE III. Elements of Income Tax Laws.

Taxpayer option, state and local taxes.

Taxpayer Option, State and Local Taxes.

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivision shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdiviisons within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Taxpayer option, short form.

Taxpayer Option, Short Form.

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any tax-

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payer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of $100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax Commission, not more than once in five years, may adjust the $100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the Commission, shall replace the $100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage. Coverage.

3. Nothing in this Article relates to the reporting or payment of any tax other than an income tax.

ARTICLE IV. Division of Income. Division of income.

1. As used in this Article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. "Business income."

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed. "Commercial domicile."

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. "Compensation."

(d) "Financial organization" means any bank, trust company, savings banks, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company. "Financial organization."

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"Nonbusiness income." (e) "Nonbusiness income" means all income other than business income.

"Public utility." (f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a Federal, State or local government or governmental agency.

"Sales." (g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this Artcile.

"State." (h) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country or political subdivision thereof.

"This state." (i) "This State" means the state in which the relevant tax return is filed or, in the case of application of this Article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

Apportionment of income. 2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this Article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this Article, the taxpayer may elect to allocate and apportion his entire net income as provided in this Article.

Taxable in another state—when. 3. For purposes of allocation and apportionment of income under this Article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Rents and royalties. 4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or

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copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this Article.

Real property and tangible personal property.

5. (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

Capital gains and losses—allocation.

6. (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

Interest and dividends.

7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

Patents and copyrights.

8. (a) Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to

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the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

Business income—allocation.

9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

Property factor.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

Valuation.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

Average value.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

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Payroll factor.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

Compensation.

14. Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;

(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

Sales factor.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

Sales of tangible personal property.

16. Sales of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States Government or (2) the taxpayer is not taxable in the state of the purchaser.

Other sales.

17. Sales, other than sales of tangible personal property, are in this state if:

(a) the income-producing activity is performed in this state; or

(b) the income-producing activity is performed both in and outside this state and a greater proportion of the

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income-producing activity is performed in this state than in any other state, based on costs of performance.

Variation in business activity.

18. If the allocation and apportionment provisions of this Article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Elements of sales and use tax laws. Tax credit.

ARTICLE V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption certificates. Vendors may rely.

Exemption Certificates. Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

The commission.

ARTICLE VI. The Commission.

Organization and management.

Organization and Management.

Multistate tax commission — members.

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from

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each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency, the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1 (e) of this Article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

Voting.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

Seal.

(d) The commission shall adopt an official seal to be used as it may provide.

Meetings.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notice of special meetings shall include the reasons therefore and an agenda of the items to be considered.

Election of officers.

(f) The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

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Personnel.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

Offices.

(j) The commission may establish one or more offices for the transacting of its business.

Bylaws.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

Report.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commisison or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may take additional reports as it may deem desirable.

Committees.

Committees.

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chairman, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

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(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers. Powers.

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementatoin of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance. Finance.

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

Budgets to contain.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In

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determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1 (i) of this Article provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1 (i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

Records and accounts.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any person authorized by the commission.

(f) Nothing contained in this Article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Uniform regulations and forms.

ARTICLE VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt

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uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of Article IV of this compact.

Adoption of regulations.

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Interstate audits.

ARTICLE VIII. Interstate Audits.

1. This Article shall be in force only in those party states that specifically provide therefor by statute.

Request for audit.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

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Attendance of witnesses.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident: provided that such state has adopted this article.

Power of subpoena.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this Article.

Decline of audit.

5. The Commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

Audit information confidential.

6. Information obtained by any audit pursuant to this Article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this Article shall be construed to require any

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taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this Article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

"Tax."

9. As used in this Article, "tax", in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Arbitration.

ARTICLE IX. Arbitration.

Regulations to settle disputes.

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this Article in effect, notwithstanding the provisions of Article VII.

Arbitration panel.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

Arbitration board — members.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected

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by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residents within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

Board—hearings.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

Notice.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

Powers of board.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoenas, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this Article.

Expenses of arbitration.

8. Unless the parties otherwise agree, the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required

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on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

Decisions of board.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocaiton, but for no other purpose.

Filing of decisions.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

Publishing of decisions.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

Rules of procedure and practice.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

Compromise.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

Entry into force and withdrawal.

ARTICLE X. Entry Into Force and Withdrawal.

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawel.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party

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shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Effect on other laws and jurisdiction.

ARTICLE XI. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement Article III (2) of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax: provided that the definition of "tax" in Article VIII (9) may apply for the purposes of that Article and the commission's powers of study and recommendation pursuant to Article VI (3) may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Construction and severability.

ARTICLE XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or of the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

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Representative to commission.

Section 2. The chairman of the state board of equalization shall represent this state on the Multistate Tax Commission.

Alternate.

Section 3. The member representing this state on the Multistate Tax Commission may be represented thereon by an alternate designated by him who must be a member of the state board of equalization.

Advisory committee.

Section 4. There is hereby established the Multistate Tax Compact advisory committee composed of the member of the Multistate Tax Commisison representing this state or any alternate designated by him, the attorney general or his designee, and two members of the senate, one (1) from each of the two (2) major political parties appointed by the senate committee on committees, and two (2) members of the house of representatives, one (1) from each of the two (2) major political parties, appointed by the speaker of the house. The chairman shall be the member of the commission representing this state. Members of the commission who are members of the Legislative Assembly shall be reimbursed for actual and necessary expenses incurred on commission business from any funds appropriated to implement this compact. The committee shall meet on the call of its chairman or at the request of a majority of its members, but in any event it shall meet not less than three (3) times in each year. The committee may consider any and all matters relating to recommendations of the Multistate Tax Commission and the activities of the members in representing this state thereon.

Approved: February 6, 1969.

CHAPTER 18

An Act to Provide that the Secrtary of State Shall Prepare A Certified Roster to Be Used in the Organization of Both Houses of the Legislature; Amending Sections 43-207 and 43-208, R.C.M. 1947, and Repealing Section 43-206, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Secretary of state to prepare rosters from election records.

Section 1. The secretary of state shall prepare certified rosters from the official election records on file in his office for use in the organization of the senate and house of representatives.

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Amending clause.

Section 2. Section 43-207, R.C.M. 1947, is amended to read as follows:

Organization of senate.

"43-207. **Senate, organization of.** At the hour of twelve o'clock, noon, on the day appointed for the meeting of any regular session of the legislative assembly, the president of the senate, or in case of his absence or inability, then the senior member present, must take the chair, call the senators and senators-elect to order, *call over the senators from the certified roster prepared by the secretary of state,* and then, *from the certified roster prepared by the secretary of state,* call over the senatorial districts *and counties,* in their order, from which members have been elected at the preceding election, and *after* the same are called the members-elect must take the constitutional oath of office and assume their seats. The senate may thereupon, if a quorum is present, proceed to elect its officers."

Amending clause.

Section 3. Section 43-208, R.C.M. 1947, is amended to read as follows:

Organization of house of representatives.

"43-208. **House of representatives, organization of.** At the time specified in section 43-207, the secretary of state, or in case of his absence or inability, then the senior member-elect present, must take the chair, call the members-elect of the house of representatives to order, and then, *from the certified roster prepared by the secretary of state,* call over the roll of counties and districts; and *after* the same are called the members-elect must take the constitutional oath of office and assume their seats. The house of representatives may thereupon, if a quorum is present, proceed to elect its officers."

Repealing clause.

Section 4. Section 43-206, R.C.M. 1947, is repealed.

Approved: February 7, 1969.

CHAPTER 19

An Act Amending Section 84-713, R.C.M. 1947, to Require the Governor, Rather Than the State Board of Equalization, to Determine, the State Property Tax Rate Necessary to Raise Revenue Required by the Legislative Assembly for State Purposes.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-713, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-713. **Determination of state rate of taxation—notice of.** Between the first and third Mondays of August of each year, the *governor* must determine the rate of state tax to be levied and collected upon the assessed valuation of the property in the state, which, after allowing twelve percent *(12%)* for delinquencies in the collection of taxes, must be sufficient to raise the specific amount of the revenue required by the legislative assembly for state purposes. The *state* board *of equalization* must immediately thereafter transmit to the county clerk of each county a statement of such rate, and upon its receipt the county clerk must, in writing, notify the state board of equalization thereof." Determination of state rate of taxation—notice.

Approved: February 10, 1969.

CHAPTER 20

An Act Naming the Sapphire and the Montana Agate the Official Montana State Gem Stones.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The sapphire and the Montana agate are the official Montana state gem stones. Sapphire and Montana agate official state gems.

Approved: February 10, 1969.

CHAPTER 21

An Act Amending Section 37-104.1, R.C.M. 1947, to Require a Statement Setting Forth the Vote by Which a Referendum Passed Both Houses of the Legislative Assembly and That it Was Signed by the Governor; and That it Shall Be Printed on the Ballot.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 37-104.1, R.C.M. 1947, is amended to read as follows: Amending clause.

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Attorney general's summary of referred or initiative measures —statement by secretary of state for referendum measures— placement on ballot.

"37-104.1. **Attorney general's summary of referred or initiative measures—***statement by secretary of state for referendum measures*—**placement on ballot.** The secretary of state of the state of Montana prior to certifying and numbering of referendum, initiative or constitutional amendment to the several counties of Montana as provided by sections 37-105 and 23-1102 of the Revised Codes of Montana, 1947, shall transmit a copy of the measure to be voted upon to the attorney general of Montana. Within ten (10) days after the measure is filed with him, the attorney general shall provide and return to the secretary of state a statement in ordinary plain language explaining in not more than one hundred (100) words the general purpose of the measure submitted. *In the case of referendum measures, the secretary of state shall prepare a statement setting forth the vote by which the referendum passed each house of the legislative assembly and that it was signed by the governor. The statement by the secretary of state shall precede the attorney general's statement on the printed form.* The statement as prepared by the attorney general, *and the statement of the secretary of state for referendum measures only,* shall be in addition to the legislative title of the measure, *the statement of the secretary of state for referendum measures only and* the statement of the attorney general shall precede the other title of the measure. In providing the statement, the attorney general shall give a true and impartial statement of the purpose of the measure in plain, easily understood language and in such manner as shall not be an argument or likely to create prejudice either for or against the measure."

Approved: February 10, 1969.

CHAPTER 22

An Act Amending Section 16-4210, R.C.M. 1947, to Provide That All Property Within a Mosquito Control District Be Taxed for Purposes of the Mosquito Control Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-4210, R.C.M. 1947, is amended to read as follows:

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"16-4210. **Mosquito control fund.** The board of county commissioners of any county within which a mosquito control board has been created shall establish a mosquito control fund, and at the time fixed by law for levy and assessment of taxes shall levy a tax of not exceeding five (5) mills on the dollar of the total taxable valuation in such district on *all* property situated within the said district, the proceeds of which shall be placed in a separate fund with the county treasurer of such county and shall be used solely for the purpose for which such mosquito control district was created. Warrants upon such fund shall be drawn by the board of county commissioners upon the presentation of claims approved by the mosquito control board." Mosquito control fund.

Approved: February 10, 1969.

CHAPTER 23

An Act Amending Section 93-1110, R.C.M. 1947, to Provide That Administrative Costs of the Montana Judges' Retirement System Shall Be Paid from the Judges' Retirement Account Rather Than by General Fund Appropriations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-1110, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-1110. **Administrative expenses.** *(1)* The expense of the administration of this act, exclusive of the payment of retirement allowances and other benefits, shall be paid *from the Montana judges' retirement account.* Judges' retirement account—administrative expenses.

(2) Before July 15, 1970 and before July 15 of each year thereafter, the board shall compute the administrative costs for the immediately preceding fiscal year and transfer that amount from the Montana judges' retirement account to the public employees' retirement system account in the earmarked revenue fund."

Approved: February 13, 1969.

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CHAPTER 24

An Act Requiring Trustees Appointed By Will, Deed or Agreement to Render an Annual Statement to the Beneficiaries Thereof; Amending Section 91-4201, R.C.M. 1947, to Provide for Court Accountings at the Request of Any Beneficiary or Trustee.

Be it enacted by the Legislative Assembly of the State of Montana:

Trustees appointed by will, deed or agreement to render annual statement of account to beneficiaries.

Section 1. The trustee or trustees appointed by any will, deed or agreement heretofore or hereafter executed shall mail or deliver at least annually to each income trust beneficiary a written itemized statement of all current receipts and disbursements made by the trustee of the funds of the trust, both principal and income, and upon the request of any such beneficiary shall furnish him an itemized statement of all property then held by such trustee, and may also file any such statement in the district court of the county in which the trustee or one of the trustees resides.

Intermediate account—filing in district court—account to show.

In addition thereto any such trustee or trustees, whenever it or they so desire, may file in the district court of the county in which the trustees or one of the trustees resides an intermediate account under oath showing:

(1) the period covered by the account;

(2) the total principal with which the trustee is chargeable according to the last preceding account or the inventory if there is no preceding account;

(3) an itemized statement of all principal funds received and disbursed during such period;

(4) an itemized statement of all income received and disbursed during such period, unless waived;

(5) the balance of such principal and income remaining at the close of such period and how invested;

(6) the names anad addresses of all living beneficiaries, including contingent beneficiaries, of the trust, and a statement as to any such beneficiary known to be under legal disability;

(7) a description of any possible unborn or unascertained beneficiary and his interest in the trust fund.

Final account.

In addition thereto, after the time for termination of the

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trust shall have arrived, the trustee or trustees may file a final account in similar manner.

Petition to district court for account.

Upon the petition of any settler or of any beneficiary of such a trust, after due notice thereof to the trustee, the district court in the county where the trustee or one of the trustees resides may direct the trustee or trustees thereof to file in said court such an account at any time subsequent to one year from the day on which such a report was last filed, or if none, then after one (1) year from the inception of the trust.

Return day—notice.

When any such account shall have been filed, the clerk of the court where filed shall fix a return day therefor and issue a notice as provided for herein. If each of the beneficiaries and the guardians and guardians ad litem, if any, is personally served with a copy of the notice, whether within or outside the state of Montana, at least twenty-five (25) days prior to the return day, then no publication of the notices shall be required; otherwise the trustee or trustees shall cause notice as provided for herein to be given by publishing the same at least once a week for three (3) successive weeks preceding the return day, the first publication to be at least twenty-five (25) days preceding the return day, such publication to be in a newspaper of general circulation in the county, or if none, then in adjoining county. And in any event, at least twenty-five (25) days prior to the return day, a copy of the notice shall be either served upon each beneficiary not represented by guardian or guardian ad litem or mailed to each such beneficiary not so served at such beneficiary's address last known to the trustee; and shall be either served upon each guardian and guardian ad litem, or mailed to each such guardian and guardian ad litem not so served at such guardian's or guardian ad litem's address last known to the trustee. Proof of service of the notice may be made by affidavit, as provided for service of summons in civil actions, or by written admission of service signed by the person served. The notice shall state the time and place for the return day, the name or names of the trustee or trustees who have filed the account, that the account has been filed, that the court is asked to settle such account, and that any objections or exceptions thereto must be filed with the clerk of said court on or before such return day.

Publication.

Service.

Notice to state.

Objections.

Upon or before the return day, any beneficiary of the

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trust may file his written objections or exceptions to the account filed or to any action of the trustee or trustees set forth therein. The court may appoint either the legal guardian of a beneficiary, or a guardian ad litem to represent the interest of any such beneficiary who is an infant or of unsound mind or otherwise legally incompetent, or who is yet unborn or unascertained, and such beneficiary shall be bound by any action taken by such representative. Every unborn or unascertainable beneficiary shall be concluded by any action taken by the court for or against any living beneficiary of the same class or whose interests are similar to the interests of such unborn or unascertainable beneficiary.

Appointment of representative.

Hearing and determination.

At the same time, or at some later day fixed by the court if so requested by one or more of the parties, the court, without the intervention of a jury and after hearing all the evidence submitted, shall determine the correctness of the account and the validity and propriety of all actions of the trustee or trustees set forth therein including the purchase, retention and disposition of any of the property and funds of the trust, and shall render its decree either approving or disapproving the same or any part thereof, and, in addition, may surcharge the trustee or trustees for all losses, if any, caused by negligent or willful breaches of trust.

Decree.

The decree so rendered shall be deemed final, conclusive and binding upon all the parties interested including all incompetent, unborn and unascertained beneficiaries of the trust, subject only to the right of appeal hereinafter stated.

The decree so rendered shall be a final order from which any party in interest may appeal as in civil actions to the district court of the state of Montana.

Trusts exempt.

This chapter shall not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiaries, investment trusts, voting trusts, insurance trusts prior to the death of the insured, trusts in the nature of mortgages or pledges, trusts created by judgment or decree of a federal court or of the district court when not sitting in probate, liquidation trusts or trusts for the sole purpose of paying dividends, interest or interest coupons, salaries, wages or pensions; nor shall this chapter apply to executors, administrators or guardians.

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Waiver.

The settlor of any trust governed by this chapter may waive any or all of the provisions of this act requiring periodical statements to beneficiareis or may add additional duties in the instrument creating the trust; and any beneficiary entitled to an accounting under this act may waive such an accounting by a separate instrument delivered to the trustee or trustees.

Amending clause.

Section 2. Section 91-4201, R.C.M. 1947, is amended to read as follows:

Jurisdiction of trusts by court—distribution—accounts of trustees.

"91-4201. **Court not to lose jurisdiction of trusts by distribution—accounts of trustees.** Where any trust has been created by or under any will to continue after distribution, the district court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction thereof for the purpose of the settlement of accounts under the trust *as provided in title 86.*"

CHAPTER 25

An Act Giving the District Court Discretion in Setting Minimum Compensation for Guardians of Incompetent Veterans: Amending Section 91-4812, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-4812 is amended to read as follows:

Compensation of guardians.

"91-4812. **Compensation of guardians.** Compensation payable to guardians shall be based upon services rendered and shall not exceed five percent (5%) of the amount of moneys received during the period covered by the account, *or a minimum of one hundred dollars ($100) whichever is the greater, the decision as to such amount of compensation, however, to be at the discretion of the District Court.* In the event of extraordinary services by any guardian, the court, upon petition and hearing thereon may authorize reasonable additional compensation therefor. A copy of the petition and notice of hearing thereon shall be given the proper office of the veterans' administration in the manner provided in the case of hearing on a guardian's account or other pleading. No commission or compensation shall be allowed on the moneys or other assets

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received from a prior guardian nor upon the amount received from liquidation of loans or other investments."

Approved: February 13, 1969.

CHAPTER 26

An Act to Amend Section 31-128, R.C.M. 1947, Deleting the Requirement for a Certificate of Character Prior to Being Issued a Montana Chauffeur's License.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-128, R.C.M. 1947, is amended to read as follows:

Classification of chauffeurs—special restrictions.

"31-128. **Classification of chauffeurs—special restrictions.** (a) The board upon issuing a chauffeur's license shall indicate thereon the class of license so issued and shall appropriately examine each applicant according to the class of license applied for and may impose such rules and regulations for the exercise thereof as it may deem necessary for the safety and welfare of the traveling public.

(b) No person who is under the age of twenty-one (21) years shall drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons for compensation nor in either event until he has been licensed as a chauffeur for either such purpose and the license so indicates. The board shall not issue a chauffeur's license for either such purpose unless the applicant has had at least one (1) year of driving experience prior thereto and the board is fully satisfied as to the applicant's competency and fitness to be employed."

Approved: February 13, 1969.

CHAPTER 27

An Act Amending the Guardianship Law to Provide a Longer Term for Sales or Mortgages of Ward's Property and Amending Section 91-5015, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-5015, R.C.M. 1947, is amended to read as follows:

Amending clause.

"91-5015. **Conditions of sales of real estate of** *wards* **—bond and mortgage to be given for deferred payments.** All sales of real estate of wards, *where the sales price is five thousand dollars ($5,000) or less,* must be for cash, or for part cash and part deferred payments, the credit in no case to exceed three years from the date of sale, as in the discretion of the court or judge is most beneficial to the ward. *For sales of real estate of wards where the sales price exceeds five thousand dollars ($5,000), deferred payments may be extended not to exceed twenty (20) years.* Guardians making sales must demand and receive from the purchasers, in case of deferred payments, notes and mortgage *or trust indenture or contract for deed;* on the real estate sold, with such additional security as the court or judge deems necessary and sufficient to secure the prompt payment of the amounts so deferred, and the interest thereon."

Conditions of sales of real estate of wards—bond and mortgage to be given for deferred payments.

Section 2. This act is effective on passage and approval.

Effective immediately.

Approved: February 13, 1969.

CHAPTER 28

An Act to Amend Section 31-130, R.C.M. 1947, to Include Motorcycle Endorsement With Those Items for Which Application Must Be Made; Making a New Resident's Out-Of-State Driving Record a Part of His Montana Record When Such New Resident Becomes Licensed by This State.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 31-130, R.C.M. 1947, is amended to read as follows:

Amending clause.

"31-130. **Application for license, instruction permit** *or motorcycle endorsement.* (a) Every application for an instruction permit, operator's or chauffeur's license *or motorcycle endorsement* shall be made upon a form furnished by the board. Every application shall be accompanied by the proper fee and payment of such fee shall

Application for license, instruction permit or motorcycle permit.

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entitle the applicant to not more than three attempts to pass the examination within a period of *six (6)* months from the date of application.

(b) Every such application shall state the full name, date of birth, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal.

(c) Whenever application is received from an applicant previously licensed by any other jurisdiction or jurisdictions, the board shall request a copy of such applicant's driving record from such previous licensing jurisdiction or jurisdictions. When received, such driving records shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.''

Approved: February 13, 1969.

CHAPTER 29

An Act Providing for the Establishment of a Curfew Hour for Minors in Unincorporated Cities and Towns by General Order of the Board of County Commissioners of the Respective Counties of Montana, Providing a Penalty and for Enforcement Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Intent provision.

It is the intent of the legislative assembly that this act be codified as one of the special powers enumerated in Chapter 11 of Title 15, Revised Codes of Montana, 1947.

Boards of county commissioners shall have power to establish curfew hour for minors.

Section 1. The boards of county commissioners of the respective counties shall have power, by general order, from time to time, to establish a curfew hour, after which minors will not be allowed abroad on the public streets within the confines of unincorporated cities and towns of any such county; and shall have authority to make all proper and

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necessary administrative rules and regulations for the purpose of carrying into effect the provisions of this act.

Enforcement.

Section 2. The enforcement of the provisions of this act is enjoined upon every officer and official whose duty it is to enforce the laws of the state.

Violation — penalty.

Section 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not exceeding ten dollars ($10.00).

Repealing clause.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved: February 13, 1969.

CHAPTER 30

An Act Amending Section 40-3802, R.C.M. 1947, Relating to Industrial Life Insurance, to Provide that Life Insurance Written Under Policies of Face Amount of Two Thousand Dollars ($2,000) or Less Bearing the Words "Industrial Policy" be Defined as "Industrial Life Insurance".

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-3802, R.C.M. 1947, be amended to read as follows:

Industrial life insurance.

"40-3802. **'Industrial life insurance' defined.** For the purpose of this code 'industrial life insurance' is that form of life insurance written under policies of face amount of *two thousand dollars ($2,000)* or less bearing the words 'industrial policy' imprinted on the face thereof as part of the descriptive matter, and under which premiums are payable monthly or more often."

Approved: February 13, 1969.

CHAPTER 31

An Act Amending Section 40-4203, R.C.M. 1947, Relating to Credit Life and Credit Disability Insurance, to Pro-

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vide That All Credit Life and Credit Disability Insurance Sold in Connection With a Loan or Other Credit Transaction of More Than Ten (10) Years Duration Not Be Subject to the Provisions of the Credit Life and Credit Disability Provisions of the Montana Insurance Code.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-4203, R.C.M. 1947, be amended to read as follows:

Life and disability insurance in connection with loans.

"40-4203. **Scope of chapter.** All life insurance and all disability insurance sold in connection with loans or other credit transactions shall be subject to the provisions of this chapter except such insurance sold in connection with a loan or other credit transaction of more than *ten (10)* years duration."

Approved: February 13, 1969.

CHAPTER 32

An Act Amending Section 40-2726, R.C.M. 1947, Relating to Fees and Licenses to Be Collected by the Montana Insurance Commissioner to Provide That Insurers Pay Three Hundred Dollars ($300.00) for an Annual Continuation of Certificate of Authority.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 40-2726, R.C.M. 1947, be amended to read as follows:

Fees and licenses.

"40-2726. **Fees and licenses.** (1) The commissioner shall collect in advance, and the persons so served shall so pay to the commissioner, the following fees and licenses:

Certificate of authority—application.

(a) Certificates of authority.

(i) Application for original certificate of authority: For filing applications for certificate of authority, articles of incorporation (except as provided in subsection (b), below) and other charter documents, bylaws, financial statement, examination report, power of attorney to the commissioner, and all other documents and filings re-

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quired in connection with such application, and for issuance of an original certificate of authority, if issued:

Domestic insurers	$ 30.00
Foreign insurers	300.00
(ii) Annual continuation of certificate of authority	*300.00*
(iii) Reinstatement of certificate of authority	25.00
(b) Articles of incorporation:	
(i) Filing original articles of incorporation of domestic insurer, exclusive of fees required to be paid by the corporation to the secretary of state	20.00
(ii) Filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation	10.00
(c) Filing bylaws or amendment thereto, where required	5.00
(d) Filing annual statement of insurer, other than as part of application for original certificate of authority	25.00
(e) Agent's license, property, casualty, surety, title insurance agents, and including disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the agent:	
(i) Application for original license, and including issuance of license, if issued	10.00
(ii) Appointment of agent, each insurer	5.00
(iii) Annual renewal or appointment of agent, each insurer	5.00
(iv) Temporary license	10.00
(f) Solicitor's license:	
(i) Application for original license, including issuance of license, if issued	5.00
(ii) Annual continuation of license	5.00

Continuation.

Reinstatement.

Articles of incorporation.

By-laws.

Annual statement.

Agent's license.

Solicitor's license.

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Agent's license.

(g) Agent's license, life, disability insurance:

(i) Application for original license, each insurer 5.00

(ii) Annual continuation or renewal of license, each insurer 5.00

(iii) Temporary license, each insurer 5.00

Examination for license.

(h) Examination for license as agent or solicitor, each examination 10.00

Surplus line agent's license.

(i) Surplus line agent's license:

(i) Application for original license and for issuance of license, if issued 25.00

(ii) Annual renewal or continuation of license 25.00

Adjuster's license.

(j) Adjuster's license:

(i) Application for original license and for issuance of license, if issued 10.00

(ii) Annual continuation or renewal of license 10.00

Vending machine license.

(k) Insurance vending machine license, each machine, each year 10.00

Commissioner's certificate.

(l) Commissioner's certificate under seal (except when on certificates of authority or licenses) 1.00

Copies.

(m) Copies of documents on file in the commissioner's office, per page ..... .50

Deposit of fees.

(2) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund of this state all fees and licenses received by him under this section.

Fees in lieu of other fees.

3. The fees provided for in this section shall be in lieu of all fees heretofore payable with respect to insurance or insurers under section 25-101."

Approved: February 13, 1969.

CHAPTER 33

An Act to Amend Title 60, Chapter 1, Revised Codes of Montana, 1947, by Adding an Act Empowering the Oil

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and Gas Conservation Commission of the State of Montana Upon Application, to Determine the Need for and to Make Orders Providing for the Operation as a Unit of One or More Pools or Parts Thereof in a Field; Providing What Any Such Order Shall Include; Providing That No Order Shall Be Effective Except After Approval by 80% of the Parties Involved Within Six Months; and Providing for the Amendment of Orders Made; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Commission to hold hearing on need for unit operation.

Section 1. The commission, upon the application of persons owning leasehold interests underlying 60% of the surface within the delineated area, shall hold a hearing to consider the need for the operation as a unit, for pressure maintenance or secondary recovery purposes, of one or more pools or parts thereof in a field.

Notice of application.

(1) At least sixty (60) days prior to application, the applicant shall, by registered or certified mail, notify all known persons owning an interest in the oil and gas within the proposed unit area as disclosed by the records of the county or counties in which the proposed unit area is situated, at such persons' last known address, of applicant's intention to make such application. At the same time producers will be furnished with a plan of unit operations. Upon written request of any operator of any lease which is in whole or in part within the confines of the proposed delineated area, applicant will furnish such operator with copies of any exhibits to be submitted to the commission at the time of hearing.

Order for unit operation basis.

Section 2. The commission shall make an order providing for the unit operation of a pool or pools or part thereof if it determines, based on evidence presented at such hearing, that:

(1) Such operation is reasonably necessary to increase the ultimate recovery of oil or gas; and

(2) The value of the estimated additional recovery of oil or gas less royalties exceeds the estimated additional cost incident to conducting such operations; and

(3) The full areal extent of such pool or pools or part thereof has been reasonably defined and determined by drilling operations.

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Terms to be just and reasonable—order to include—description.

Section 3. The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

(1) A description of the pool or pools or parts thereof to be so operated, termed the unit area, but only so much of a pool as has reasonably been defined and determined by drilling operations to be productive of oil or gas may be included within the unit area.

Plan and agreement.

(2) A statement of the nature and purpose of the plan and operations contemplated, together with a copy of the proposed unit agreement and unit operating agreement.

Plan of allocation of production.

(3) A plan for allocating to each tract in the unit area its fair share of the oil and gas produced from the unit area and not required or consumed in the conduct of the operation of the unit area or unavoidably lost. No such plan shall be approved by the commission until the commission has considered the relative value that such share of production bears to the relative value of all of the separately owned tracts in the unit area, exclusive of physical equipment utilized in unit operations. In so considering such relative value, the commission shall weigh the economic value of the gas to all persons affected as compared to the economic value of the oil to all persons affected.

Credits and charges.

(4) A provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations.

Allocation of costs.

(5) A provision providing how the costs of unit operations, including overhead and capital investments, shall be determined and charged to the separately owned tracts, including a provision for carrying or otherwise financing any owner who has not executed the proposed unit operating agreement and who elects to be carried or otherwise financed, allowing an interest charge of the then current prime rate plus two per cent (2%) for such service. Recovery of the money advanced, plus interest, shall be limited to, and only shall be recoverable from, such owners' share of production. Such recovery shall be as follows:

Recovery of advanced costs—method.

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(a) During the period of depletion of the remaining estimated primary reserves from the unit, only from the production that is in excess of such owners' average actual rate of production during the eighteen (18) months immediately preceding the effective date of the unit. *For purposes of this subsection, the term 'primary reserves' means the oil or gas which would be produced from the unitized poor or poos as a result of the natural energy therein and without the introduction or a secondary recovery program.*

"Primary reserves."

(b) During the period subsequent to the depletion of the remaining estimated primary reserves from the unit, from one hundred per cent (100%) of such owners' share of production.

(6) A provision for the supervision and conduct of the unit operations, in respect to which each owner shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of such owner.

Supervision and conduct of operations.

(7) A provision whereby the unit operator, after having operated for a minimum period of two years, can be challenged by any other owner in the unit, and such challenging owner may succeed to the unit operations upon a showing that (a) he can operate more efficiently and economically than the present operator; (b) he is qualified and financially responsible; (c) a majority of the other owners, both in number and in percentage and exclusive of the challenged operator, approve such challenging owner becoming unit operator; and (d) *the challenged operator does not initiate the conditions of operations of the challenging owner within sixty (60) days of the challenged operator's receipt of such conditions of operations.*

Challenge of unit operator.

(8) The time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate; and

Time unit operation to commence.

(9) Such additional provisions that are found to be appropriate for carrying on unit operations and for the protection and adjustment of correlative rights.

Additional provisions.

Section 4. No order of the commission providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the commission has been approved in writing by those persons who, under

Order of commission not effective until plan for unit operations approved.

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the commission's order, will be required to pay at least eighty per cent (80%) of the costs of the unit operations, and also by the persons owning at least eighty per cent (80%) of the production or proceeds thereof that will be credited to interests which are free of cost, such as royalties, overriding royalties, and production payments, and the commission has made such a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved; provided, however, that if one owner who is obligated to pay costs of the unit operation owns eighty per cent (80%) or more, but less than one hundred per cent (100%), the approval of that owner and at least one other such owner shall be required, and if one person entitled to production or proceeds thereof that will be credited to interests which are free of costs, owns eighty per cent (80%) or more, but less than one hundred per cent (100%), the approval of that person and at least one other such person shall be required. If the plan for unit operations has not been so approved at the time the order providing for unit operations is made, the commission shall, upon application and notice, hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the requisite number of owners and persons and the requisite percentage of interests in the unit area do not approve the plan for unit operations within a period of six (6) months from the date on which the order providing for unit operations is made, such order shall be revoked by the commission unless for good cause shown the commission extends said time.

Findings by commission.

Non-approval of plan—supplemental hearing — revocation of order.

Amendment of order.

Section 5. An order providing for unit operations may be amended by an order made by the commission in the same manner and subject to the same conditions and notice as an original order providing for unit operations, provided (a) if such an amendment affects only the rights and interests of the owners, the approval of the amendment by the persons owning interest which are free of costs, such as royalties, overriding royalties and production payments, shall not be required, and (b) no such order of amendment shall change the percentage for the allocation of oil and gas as established for any tract by the original order, except with the consent of all persons owning oil and gas rights in such tract, or change the

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percentage for the allocation of cost as established for any tract by the original order, except with the consent of all owners in such tract.

Unit operation of units previously established.

Section 6. The commission, by an order, may provide for the unit operation of a pool or pools or parts thereof that embrace a unit established by an order of the commission made subsequent to the effective date of this amendment to Title 60, Chapter 1, Revised Codes of Montana. Such order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the tracts included in such previously established unit area in the same proportions as those specified in the previous order. Any new owner whose interest by such order is added to the unit area and who becomes liable for his proportionate share of the costs of unit operations will not be liable for any unit operating costs incurred prior to such person's entry in the unit. At the time such interest is included in the unit, an equipment inventory will be made in order to charge such newly committed interest with its proportionate share of capital investment at its then value. An oil-in-storage inventory will be taken immediately prior to adding the newly committed interest.

New owner.

Equipment inventory.

Unit operation on less than whole of pool.

Section 7. An order may provide for unit operations on less than the whole of a pool where the unit area is of such size and shape as may be reasonably required for that purpose, and the conduct thereof will have no adverse effect upon other portions of the pool.

All operations deemed operations by several owners.

Section 8. All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations upon each tract in the unit area by the several owners thereof. The portion of the unit production allocated to a tract in a unit area shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon. Operations conducted pursuant to an order of the commission providing for unit operations shall constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that such obligations

Production deemed to be from tract by well drilled thereon.

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cannot be performed because of the order of the commission.

Liens on unitized production.

Section 9. That portion of the unit production allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations, except that the operator of the unit shall, *subject to section 3, sub-section 5 (a),* have a first and prior lien upon each owner's oil and gas rights and his share of unitized production to secure the payment of such owner's proportionate part of developing and operating the unit area. Such lien may be perfected and enforced in the same manner as provided in Title 45, Chapter 5, Revised Codes of Montana, 1947, as amended.

Termination of division order or agreement prohibited.

Section 10. No division order or other contract relating to the sale or purchase or production from a tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.

Order not to affect title.

Section 11. Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations hereunder shall be acquired for the account of the owners within the unit area, and shall be the property of such owners in the proportion that the expenses of unit operations are charged.

Unit not to violate state law.

Section 12. The formation of such a unit as herein provided and the operation of the unit under order of the commission shall not be in violation of any statute of this state relating to trusts, monopolies, contracts or combinations in restraint of trade.

Unit does not create certain relationships.

Section 13. The formation of such a unit as herein provided will not create a relationship between the parties thereto which shall be deemed to be or constitute a joint endeavor, adventure, undertaking, association or mining or other partnership.

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Section 14. This act shall take effect from date of its passage and approval. Effective immediately.

Approved: February 13, 1969.

CHAPTER 34

An Act Requiring Any Person Who Operates a Livestock Market and Obtains a Certificate Issued by the Livestock Commission According to Section 46-908, R.C.M. 1947, to Issue a Receipt to Any Person, Firm, Partnership, or Corporation Selling Livestock Through a Livestock Market Showing the Number of Livestock He Has Consigned.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any person operating a "livestock market" as defined by section 46-906, R.C.M. 1947, which must have a certificate issued by the Montana livestock commission according to section 46-908, R.C.M. 1947, shall issue a receipt to any person, firm, partnership, or corporation selling livestock through a livestock market showing the number and description of livestock he has consigned for sale. Operators of livestock markets to issue receipts of consigned stock.

Approved: February 13, 1969.

CHAPTER 35

An Act Providing for the Inspection of Livestock at any Shipping Point and Approval of Such Shipping Point by the Montana Livestock Commission Where a Livestock Inspector Is Available for Inspection; Amending Section 46-802, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-802, R.C.M. 1947, is amended to read as follows: Amending clause.

"46-802. **Duties of state stock inspectors and deputy state stock inspectors.** It shall be the duty of state stock inpectors and deputy state stock inspectors, upon the application of the owner of any such animal referred to in Duties of state stock inspectors and deputy state stock inspectors.

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section 46-801, or the duly authorized agent of such owner, to inspect all such animals intended for removal or shipment as in this act provided, and to issue his certificate of inspection therefor, if it shall appear with reasonable certainty that the applicant is the owner of such animal or has the lawful right to the possession thereof.

Inspection to include.

The inspection herein provided for shall include such examination of the animal and all marks and brands thereon as to identify the same. The certificate of inspection shall be made in triplicate and shall specify the date of inspection, the place of origin and place of destination of the shipment, the name and address of the owner of the animal or of the applicant for inspection, the class of the animal as specified in section 46-801, the marks and brands, if any, upon the animal, and such other information and upon such form of certificate as the livestock commission may from time to time require. One (1) copy of the certificate shall be retained by the inspector, one (1) copy thereof shall be furnished by the inspector to the owner or shipper of the animal, and one (1) shall be filed by the inspector with the secretary of the livestock commission at Helena, Montana, within five (5) days.

Right to possession of animals.

If it shall appear with reasonable certainty that the applicant is the owner of such animals or has the lawful right to the possession thereof, the state stock inspectors or deputy state stock inspectors or any sheriff or deputy sheriff, upon application of an owner or his agent of any such animal or animals to be consigned and delivered directly to a licensed livestock market located in another county of the state, or delivered directly to a shipping point *duly approved by the Montana Livestock Commission where a livestock inspector is available for inspection,* in an adjoining county, shall issue to such person a separate market consignment permit or transportation permit for each owner when the owner, or owners, or their duly authorized agents sign such permit certifying the brands, description and destination of such animals. The market consignment permit or transportation permit shall be made in triplicate, shall specify the date and time issued, the place of origin and place of destination of the shipment, the name and address of the owner of the animal or animals and the name and address of the person actually transporting the animal or animals if different than the owner, the kind of animal or animals, the marks and brands, if any,

Approved shipping points.

Permits to contain.

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upon the animal or animals, a description of the vehicle or vehicles to be used to transport such animal or animals to include the license number of such vehicle or vehicles and such other information and upon such form of permit as the livestock sommission may from time to time require. Any such permit so issued shall be good for shipment within *thirty-six (36)* hours from date and time of issue; provided, however, that permits not used within this time limitation must be returned to the issuing officer to be canceled and to release permittee from performance. One copy of such permit shall be retained by the inspector or sheriff's office, one copy shall be filed by the inspector or sheriff's office with the secretary of the livestock commission at Helena, Montana within five (5) days of the date of issue, and one copy shall be furnished by the inspector or sheriff's office to the owner or shipper of the animal or animals which such copy of the permit shall accompany the shipment and be delivered to the state stock inspector at the livestock market or shipping point where the animal or animals are delivered.

Time limitation.

The Montana Livestock Commission is hereby authorized to make such rules and regulations as shall be deemed necessary to carry out the provisions of this act."

Rules and regulations.

Approved: February 14, 1969.

CHAPTER 36

An Act to Amend Section 87-136, R.C.M. 1947, Amended, by Providing for Reciprocity With Other States In Effecting Collection of Unpaid Unemployment Compensation Taxes and Authorizing the Institution of Legal Action in Montana on Behalf of Other States.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-136, R.C.M. 1947, is amended to read as follows:

Amending clause.

"87-136. **Collection.** *(a)* If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the commission, and the employer adjudged in default shall pay the costs of such action.

Collection of U.C.C. taxes by civil action.

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Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the workmen's compensation law of this state. Action for the collection of contributions due shall be brought within five (5) years after the due date of such contributions, otherwise to be barred as provided in section 93-2604.

Reciprocity with other states.

(b) The courts of this state shall recognize and enforce liabilities for unemployment contributions imposed by other states which extend a like comity to this state. The commission is hereby empowered to sue in the courts of any other jurisdiction which extends such comity, to collect unemployment contributions and interest due this state. The officials of other states which by statute or otherwise extend a like comity to this state may sue in the courts of this state, to collect for such contributions and interest and penalties, if any, due such state; in any such case the chairman of the commission of this state may through his attorney or attorneys institute and conduct such suit for such other state. Venue of such proceedings shall be the same as for action to collect delinquent contributions, penalties and interest due under this act. A certificate by the secretary of any such state under the great seal of such state attesting the authority of such official or officials to collect unemployment compensation contributions, penalties and interest shall be conclusive evidence of such authority."

Approved: February 19, 1969.

CHAPTER 37

An Act to Amend Section 87-110 and Section 87-148, R.C.M. 1947, of the Unemployment Compensation Law, Providing for Deletion of Subjectivity Requirement of Twenty (20) Weeks' Employment.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-110, R.C.M. 1947, is amended to read as follows:

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"87-110. **Period, election and termination of employer's coverage.** (a) Any employing unit which is or becomes an employer subject to this act within any calendar year, shall be subject to this act during the whole of such calendar year.

Period of employer's coverage.

(b) Except as otherwise provided in subsection (c) of this section an employing unit shall cease to be an employer subject to this act only as of the first day of January, of any calendar year, only if it files with the commission prior to the last day of February, of such year, a written application for termination of coverage, and the commission finds that the total wages payable for employment by said employer in the preceding calendar year did not exceed five hundred *dollars* ($500). For the purposes of this subsection, the two (2) or more employing units mentioned in paragraph (2) or (3) of section 87-148 (i) shall be treated as a single employing unit.

Termination of employer's coverage.

(c) An employing unit not otherwise subject to this act, which files with the commission its written election to become an employer subject hereto for not less than two (2) calendar years, shall, with the written approval of such election by the commission become an employer subject hereto to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject hereto as of January 1, of any calendar year, subsequent to such two (2) calendar years only if at least thirty (30) days prior to said first day of January it has filed with the commission a written notice to that effect.

Election of employer's coverage.

Any employing unit for which services that do not constitute employment as defined in this act, are performed may file with the commission, a written election that all such services performed by individuals in its employ in one (1) or more distinct establishments or places of business shall be deemed to constitute employment for all purposes of this act for not less than two (2) calendar years. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1, of any calendar year subsequent to such two (2) calendar years only if at least thirty (30) days prior to such first day of January

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such employing unit has filed with the commission a written notice to that effect.''

Amending clause. Section 2. Section 87-148, R.C.M. 1947, is amended to read as follows:

"87-148. **Definitions.** As used in this act, unless the context clearly requires otherwise:

"Annual payroll." (a) (1) 'Annual payroll' means the total amount of wages paid by an employer (regardless of the time of payment) for employment during a calendar year.

"Average annual payroll." (2) 'Average annual payroll' means the average of the annual payrolls of an employer for the last three (3) or five (5) preceding calendar years, whichever average is higher.

"Benefits." (b) 'Benefits' means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

"Base period." (c) 'Base period' means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

"Benefit year." (d) 'Benefit year' with respect to any individual means, the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files a valid claim, and thereafter the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files his next valid claim after the termination of his last preceding benefit year, provided that if such filing shall result in an overlapping of benefit years the new benefit year shall begin upon the first Sunday following the expiration of his last preceding benefit year.

"Calendar quarter." (e) 'Calendar quarter' means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

"Commission." (f) 'Commission' means the unemployment compensation commission established by this act.

"Contributions." (g) 'Contributions' means the money payments to the state unemployment compensation fund required by this act.

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(h) 'Employing unit' means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one (1) or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work. "Employing unit."

(i) 'Employer' means: (1) Any employing unit whose total annual payroll within either the current or the preceding calendar year, exceeds the sum of five hundred dollars ($500); "Employer."

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all of the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act), and which, if subsequent to such acquisition were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2) or (3) has not, under section 87-110, ceased to be an employer subject to this act; or

(5) For the effective period of its election pursuant to section 87-110 (c) any other employing unit which has elected to become fully subject to this act.

(j) (1) 'Employment' subject to other provisions of "Employment."

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this subsection means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

Employment to include—when localized.

(2) The term 'employment' shall include an individual's entire service, performed within or both within and without this state if:

(A) The service is localized in this state; or

(B) The service is not localized in any state but some of the service is performed in this state and (I) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (II) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(3) Service not covered under paragraph (2) of this subsection, and performed entirely without this state with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a state if —

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

When services subject to act.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the commission that:

(A) Such individual has been and will continue to be

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free from control or direction over the performance of such services, both under his contract and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(6) The term 'employment' shall not include: Employment not to include.

(A) Agricultural labor; the term 'agricultural labor' includes all services performed —

(1) On a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple syrup or maple sugar or any commodity commonly known as agricultural commodities, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and

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vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercitl freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

"Farm." (5) As used in this section, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

(B) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority;

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(E) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or wildlife and anglers clubs or associations, and services performed in the employ of churches, charities, benevolent, fraternal, nonprofit societies and like associations as defined in section 15-1401, where said services are on a part-time basis and do not constitute the major portion of income to the individual performing such services, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(F) Service performed in the employ of this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions:

(G) Service performed in the employ of any other state of its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United

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States, except that national banks organized under the national banking law shall not be entitled to exemption under this section and shall be subject to this act the same as state banks;

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; provided, that the commision is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress; which agreements shall become effective ten (10) days after publication thereof in the manner in section 87-121 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this act;

(I) Services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishment by an individual under the age of eighteen (18) years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution.

(J) Services performed by real estate, *securities* and insurance salesmen paid solely by commissions and without guarantee of minimum earnings. **Exemption.**

(k) 'Employment office' means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, or such other free public employment offices operated and maintained by the United States government or its instrumentalities, as the commission may approve. **"Employment office."**

(l) 'Fund' means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid. **"Fund."**

(m) 'State,' includes, in addition to the states of the United States of America, Hawaii, the District of Columbia, **"State."**

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Puerto Rico, the Virgin Islands, Guam, and the Dominion of Canada.''

Approved: February 19, 1969.

CHAPTER 38

An Act to Amend Section 87-145 R.C.M. 1947, by Providing for a Discretionary Disqualification Period of From Ten (10) to Fifty-Two (52) Weeks.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-145 R.C.M. 1947, amended to read as follows:

"87-145. **Penalties—falsity or willful nondisclosure—violations by employer or agent—violation of act or regulations—wrongfully collecting benefits.**

Falsity or willful nondisclosure to obtain benefit.

(a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act, or under an employment security law of any other state, or territory or the federal government either for himself or for any other person, shall:

Penalties.

(1) Be punished by a fine of not less than fifty ($50) dollars, nor more than five hundred ($500) dollars, or by imprisonment for not less than three (3) days nor more than thirty (30) days in the county jail or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense, and

Disqualification.

(2) Be disqualified for benefits thereafter until:

(A) He has repaid to the commission a sum equal to the amount so received by him; provided, however, will not be required to repay any amount so obtained more than five (5) years prior to the date of the commission's determination that the claimant made such false statements, willful nondisclosure or misrepresentation, as provided in this paragraph, and

Disqualification period.

(B) *A period of not less than ten (10) nor more than fifty-two (52) weeks have elapsed since the date of such*

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determination by the commission, the length of time of the disqualification as herein described to be determined by the commission in accordance with the severity of each case.

False statement or representation to prevent payment of benefit—penalty.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or under the employment security law of any other state, or territory or the federal government or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than fifty ($50) dollars nor more than five hundred ($500) dollars or by imprisonment for not less than three (3) days nor more than thirty (30) days in the county jail or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

Violation of act—penalty.

(c) Any person who shall willfully violate any provision of this act or any order, rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than fifty ($50) dollars nor more than five hundred ($500) dollars or by imprisonment for not less than three (3) days nor more than thirty (30) days in the county jail or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

Improper receipt of benefits.

(d) Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this act while any conditions for the receipt of benefits imposed by this act were not fulfilled in his case, or while he was disqualified from

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receiving benefits, shall, in the discretion of the commission, either be liable to have such sum deducted from any future benefits payable to him under this act or shall be liable to repay to the commission for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in this act for the collection of past due contributions. Action for collection of overpaid benefits shall be brought within five (5) years after the date of such overpayment, otherwise to be barred as provided in section 93-2604."

Approved: February 19, 1969.

CHAPTER 39

An Act Repealing Section 94-35-176, R.C.M. 1947, Which Imposes a Penalty for Making Up or Running Railroad Trains With Freight Cars Coupled Behind Passenger Cars.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Section 94-35-176, R.C.M. 1947, is repealed.

Approved: February 19, 1969.

CHAPTER 40

An Act Amending Section 84-406, R.C.M. 1947, Changing 12 Midnight to 12 M.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-406, R.C.M. 1947, is amended to read as follows:

Time of assessment.

"84-406. **Time of assessment—motor vehicles—mobile homes—livestock.** (1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property

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to the persons by whom it was owned or claimed, or in whose possession or control it was at 12 *m.* of the first Monday of March next preceding. He must also ascertain and assess all mobile homes arriving in his county after 12 *m.* of the first Monday of March next preceding. The procedure provided by this section shall not apply to

Motor vehicles.

(a) Motor vehicles which are required by subdivision (2) hereof to be assessed as of the first day of January; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid.

Livestock.

(b) Livestock being fed in feeding pens or enclosures which may by subdivision (3) of this section be assessed on an average inventory basis. Credits must be assessed as provided in section 84-101, subdivision 6.

Special mobile equipment.

(c) Property defined in section 53-642 as 'special mobile equipment' shall be subject to assessment of personal property taxes either on the date that application is made for a special mobile equipment plate, if that date falls between the first day of January and the first Monday of March, or on the first Monday of March.

Mobile homes.

(d) Mobile homes held by a distributor or dealer of mobile homes as a part of his stock in trade.

Motor vehicles—time of assessment.

(2) The assessor must ascertain and assess all motor vehicles, except mobile homes, in his county subject to taxation as of January 1 in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at 12 *m.* of the first day of January in each year. Provided that such tax shall not be assessed against motor vehicles which constitute inventory of motor vehicle dealers as of January 1, but said vehicles, and all other motor vehicles brought into the state subsequent to January 1, as motor vehicle dealer's inventory, shall be assessed to their respective purchasers as of the dates said vehicles are registered by said purchasers, except as otherwise provided by section 32-3315. Goods, wares and merchandise of motor vehicle dealers, other than new motor vehicles and new mobile homes, shall continue to be assessed at full and true value as of the first Monday of March.

Except that this paragraph shall not apply to an appli-

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cant for registration or re-registration of a mobile home, nothing herein contained shall relieve the applicant for registration or re-registration of any other motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or re-registration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

Livestock computation.

(3) The assessed value of livestock being fed in feeding pens or enclosures on the first Monday in March may be computed by adding the value of livestock more than six (6) months of age being fed on the last day of each month since the last assessment date and dividing the sum by twelve (12)."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved: February 19, 1969.

CHAPTER 41

An Act Amending Section 94-1431, R.C.M. 1947, by Deleting the Requirement of Submitting Vouchers for Expenditures over Five Dollars ($5) With Expense Statements of Political Committees, Political Candidates, Political Agents, and Other Persons Who Expend Funds for Political Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 94-1431, R.C.M. 1947, is amended to read as follows:

Political committees—treasurer to keep accounts.

"94-1431. **Accounts of expenditures by political committees and other persons—statement.** *(1)* Every political committee shall have a treasurer, who is a voter, and shall cause him to keep detailed accounts of all its receipts, payments, and liabilities. Similar accounts shall be kept by every person, who in the aggregate receives or expends money or incurs liabilities to the amount of more than fifty dollars *($50)* for political purposes, and by every political agent and candidate. Such accounts shall cover all transactions in any way affecting or con-

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nected with the political canvass, campaign, nomination, or election concerned.

Accounting by treasurer.

(2) Every person receiving or expending money or incurring liability by authority or in behalf of or to promote the success or defeat of such committee, agent, candidate, or other person or political party or organization, shall, on demand, and in any event within fourteen *(14)* days after such receipt, expenditure, or incurrence of liability, give such treasurer, agent, candidate, or other person on whose behalf such expense or liability was incurred *a* detailed *verified* account thereof. Every payment shall be *accounted for* by a receipted bill stating the particulars of expense. Every voucher, receipt, and *verified* account hereby required shall be a part of the accounts and files of such treasurer, agent, candidate, or other person, and shall be preserved for six *(6)* months after the election to which it refers.

Verified statement of expenditures.

(3) Any person not a candidate for any office or nomination who expends money or value to an amount greater than fifty dollars *($50)* in any campaign for nomination or election, to aid in the election or defeat of any candidate or candidates, or party ticket, or measure before the people, shall, within ten *(10)* days after the election in which said money or value was expended, file with the secretary of state in the case of a measure voted upon by the people, or of state or district offices for districts composed of one *(1)* or more counties, or with the county clerk for county offices, and with the city clerk, auditor, or recorder for municipal offices, *a verified* itemized statement of such receipts and expenditures for every sum paid in excess of five dollars *($5)*, and shall at the same time deliver to the candidate or treasurer of the political organization whose success or defeat he has sought to promote, a duplicate of such statement and a copy of such *receipts*.

Books of account shall be open to inspection.

(4) The books of account of every treasurer of any political party, committee, or organization, during an election campaign, shall be open at all reasonable office hours to the inspection of the treasurer and chairman of any opposing political party or organization for the same electoral district; and his right of inspection may be

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enforced by writ of mandamus by any court of competent jurisdiction."

Approved: February 19, 1969.

CHAPTER 42

An Act to Amend Section 31-117, R.C.M. 1947, Providing for Certain Changes in Montana Highway Patrol Personnel Nomenclature and Classification.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-117, R.C.M. 1947, is amended to read as follows:

Drivers' examination section —chief and deputy chief examiner.

"31-117. **Drivers' examination section of highway patrol.** There is hereby created a drivers' examination section of the Montana highway patrol, under the direct control and supervision of the Montana highway patrol board. Said board shall maintain a permanent place of business at the state capitol and shall meet at least once each month for the purpose of transacting business either as the drivers' examining board, the highway patrol board, or jointly for the two. The board shall select a chief examiner, and *deputy chief examiner,* as many assistant chief examiners and examiners as it deems necessary and shall provide for the necessary clerical help.

The chief examiner, *deputy chief examiner,* assistant chief examiners and all examiners shall have the same qualifications as are required for members of the Montana highway patrol. The chief examiner shall rank as a captain, *the deputy chief examiner as a lieutenant,* the assistant chief examiners shall rank as sergeants, and the examiners shall rank as patrolmen."

Approved: February 20, 1969.

CHAPTER 43

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of this State, and All

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Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing that this Act May Be Cited as "The 1969 Bond Validating Act"; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

The 1969 bond validating act.

Section 1. This act may be cited as "The 1969 Bond Validating Act."

Section 2. The following terms, wherever used or referred to in this act, shall have the following meanings;

"Public body."

(1) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the state of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission, or any other governmental agency of this state.

"Bonds."

(2) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Validation of bonds.

Section 3. All bonds heretofore issued by any public body of this state, and all proceedings heretofore taken for the authorization and issuance of such bonds, for the levy, establishment, pledge and appropriation of taxes, special assessments and other charges and revenues to pay such bonds, and for the sale, exchange, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in

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such sale, exchange, execution or delivery, and bonds of such public bodies, whether heretofore issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such political body.

Exclusion.

Section 4. This act shall not apply to or affect any action or appeal instituted on or before January 1, 1969, in which the validity of any such proceedings or of any such bonds is at issue.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved: February 20, 1969.

CHAPTER 44

An Act to Provide for Licensing Nonresident Insurance Agents Domiciled in States Which Grant Reciprocal Privileges to Montana Agents; Amending Sections 40-3308 Through 40-3311, 40-3313, 40-3321 and 40-3328, R.C.M. 1947, to Insure that Such Sections Apply to Resident Agents Only.

Be it enacted by the Legislative Assembly of the State of Montana:

Licensing non-residents as agents.

Section 1. The commissioner may license as an agent a person who is otherwise qualified under this code but who is not a resident of this state, if pursuant to the laws of the state of his residence a similar privilege is extended to persons resident in Montana.

Reciprocity required.

Section 2. A licensed nonresident agent shall not have the right to solicit business in Montana unless pursuant to a reciprocal arrangement made by the commissioner with the insurance supervisory official of the licensee's state of residence.

Licensing in state of residence required.

Section 3. An applicant for a nonresident license must be licensed in the state of his residence to act as agent for the kinds of insurance for which he applies for licensing in the state of Montana. The nonresident agent shall be licensed to represent only those insurers which he is

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licensed to represent in the state of his residence and which are licensed in the state of Montana. The insurance supervisory official of the applicant's state of residence must certify that the applicant is licensed and to the extent of the license.

Countersignature by licensed resident agent.

Section 4. A nonresident agent shall not sign nor countersign policies covering subjects of insurance located or to be performed in Montana. These policies must be countersigned by a licensed resident agent.

Commissioner attorney-in-fact for service of process.

Section 5. Application for and acceptance of a license as a nonresident agent shall constitute irrevocable appointment of the commissioner as the attorney-in-fact of said licensee to accept service of process issued in Montana in any action or proceeding against the licensee arising out of the licensing or out of transactions under the license. All process shall be served in duplicate upon the commissioner together with a fee of five dollars ($5). The commissioner shall then promptly forward a copy of the service by registered mail to the licensee at his last known address. Such service shall constitute personal service upon the licensee.

Montana insurance code applicable.

Section 6. All nonresident licensees shall be subject to the provisions of the Montana Insurance Code as though a resident of this state unless otherwise provided.

Amending clause.

Section 7. Section 40-3308, R.C.M. 1947, is amended to read as follows:

General qualifications—resident agents.

"40-3308. **General qualifications,** *resident* **agents and solicitors—other than life insurance agents.** (1) For the protection of the people of this state the commissioner shall not issue, continue, or permit to exist any *resident* agent or solicitor license as to insurance other than life or disability, except in compliance with this chapter, or as to any individual not qualified therefor as follows:

(a) Must be twenty-one (21) years of age or more, or, if for a solicitor's license, must be at least eighteen (18) years of age.

(b) Must be a resident in and of this state.

(c) If for *a resident* agent's license, must have been appointed as agent by an authorized insurer, subject to issuance of the license.

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(d) If for a solicitor's license, must have been appointed as solicitor by a licensed *resident* agent, subject to issuance of the license, and intend to make and make the soliciting of insurance a principal vocation.

(e) Must be competent, trustworty and of good reputation.

(f) Must have had experience or training or be otherwise qualified in the kind or kinds of insurance as to which he is to be licensed, and be reasonably familiar with the provisions of this code which govern his operations as an insurance agent or solicitor.

(g) Must pass any written examination for the license required under this chapter.

(h) Must intend in good faith to act as, and must act as and hold himself out to be an agent or solicitor in the active solicitation and negotiation of insurance with the general public; and not seek or use the license for the negotiation or effectuation of insurance on his own property or interests or those of his relatives or of his employer. If during any calendar year more than thirty-five per cent (35%) of the commissions earned or prospectively to be earned by such an applicant or licensee have been, or probably will be, derived from insurance of his own property or interests and those of his relatives and of his employer, the license will be deemed to have been used or to be intended to be used in violation of this subdivision (h).

(2) In determining the qualifications as to competence, training, experience and knowledge of the provisions of this code governing his operations as *a resident* insurance agent or solicitor, as provided for in subsection (1) above, of applicant agents or solicitors proposing to represent as such only insurers who confine their business in this state substantially to the insuring of the property, interests and risks of farmers, the commissioner shall relate such qualifications only to the kinds of insurance policies which the applicant will handle as such a licensee."

Amending clause. Section 8. Section 40-3309, R.C.M. 1947, is amended to read as follows:

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"40-3309. **General qualification for license as life or disability insurance agent.** For the protection of the people of this state the commissioner shall not issue, continue, or permit to exist any agent license as to life or disability insurance except in compliance with this chapter or as to any individual not qualified therefor as follows: General qualifications—life or disability insurance agent.

(1) Must be eighteen (18), years of age, or more.

(2) Must be a resident in and of this state; or of another state, if by reciprocal arrangements made by the commissioner with such other state similar privileges therein are granted to residents of this state.

(3) Must have been appointed as such an agent by an authorized insurer, subject to issuance of the license.

(4) Must be competent, trustworthy and of good reputation.

(5) Must have had experience or training or be otherwise adequately qualified in the kind or kinds of insurance as to which he is to be licensed, be reasonably familiar with the provisions of this code governing his operations as such an agent, and with the provisions of the policies and contracts he proposes to offer under the license.

(6) Must pass any written examination for the license required under this chapter.

(7) Must not use or intend to use the license principally for the writing of insurance on the lives or interests of himself or his relatives to the second degree.

(8) Must not be a funeral director, undertaker or mortician, or an officer, employee or representative thereof."

Section 9. Section 40-3310, R.C.M. 1947, is amended to read as follows: Amending clause.

"40-3310. **Licensing of firms and corporations.** (1) A firm or corporation shall be licensed only as an agent. If a firm, each general partner and each other individual to act for the firm under the license, and if a corporation, each individual to act for the corporation under the license, shall be named in the license and shall qualify Licensing of firms and corporations.

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therefor as though an individual licensee. The commissioner shall charge and the licensee shall pay a full additional license fee as to each respective individual so named in such license in excess of two.

(2) A nonresident of Montana shall not be named in such license and shall not have the right to exercise the license powers.

(3) A license shall not be issued to a firm or corporation unless organized under the laws of this state and maintaining its principal place of business in this state, and unless the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles.

(4) The licensee shall promptly notify the commissioner of all changes among its members, directors, and officers and of any other individual designated in the license."

Amending clause.

Section 10. Section 40-3311, R.C.M. 1947, is amended to read as follows:

Licensing of resident agents' association.

"40-3311. **Licensing of *resident* agents' association.** (1) The commissioner may license as *a resident* agent as to kinds of insurance other than life and disability, any association of licensed Montana insurance agents, whether or not incorporated, and formed and existing for substantial purposes other than as to such license.

(2) The license shall be used solely for the purpose of enabling any such association to place, as *resident* agent, insurance of the properties, interests and risks of the state of Montana and of other public agencies, bodies and institutions, and to receive the customary commission thereon.

(3) Application for the license shall be made in the name of the association by its duly constituted president and secretary, and the license may be issued to the association in its name alone.

(4) The license powers may be exercised by such *resident* agents as may be appointed from time to time for the purpose of the association's board of trustees. The association shall forthwith file the names of such appointees with the commissioner. The names of such appointees need not appear in the license.

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(5) The fee for such license shall be the same as for the license of an individual *resident* agent.

(6) Under the license the association may place insurance with any insurer represented as *resident* agent by any member of the association, and without requiring that the association have an appointment as *resident* agent by any such insurer; otherwise, the license shall be subject to the same requirements and prohibitions as apply to individual *resident* agent licenses.

(7) The commissioner may, after a hearing with notice thereof to the association only (and without notice to the individual officers or members of the association), revoke the license if he finds that continuation thereof is not in the public interest, or for such other applicable grounds as are available under this chapter in the case of individuals licensed as *resident* agents."

Section 11. Section 40-3313, R.C.M. 1947, is amended to read as follows: Amending clause.

"40-3313. **Examination.** (1) After completion and filing of the application for license as required under section 40-3312, the commissioner shall subject each applicant for license as agent or solicitor (unless exempted therefrom under subsection (5) below) to a personal written examination as to his competence to act as such agent or solicitor. Examination.

(2) If the applicant is a firm or corporation, the examination shall be so taken by each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license.

(3) Examination of an applicant for an agent's license shall cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

(a) Life insurance;

(b) Disability insurance;

(c) Property insurance;

(d) Casualty insurance;

(e) Vehicle insurance;

(f) Surety insurance.

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Marine insurance included in property insurance.

For the purposes of this provision 'marine' insurance shall be deemed to be included in 'property' insurance.

(4) Examination of an applicant for a solicitor's license shall cover all the kinds of insurance, other than life, as to which the appointing agent is licensed.

Examination not required—when.

(5) This section shall not apply to, and no such examination shall be required of:

(a) Any individual lawfully licensed as an agent or solicitor as to the kind or kinds of insurance to be transacted as of or immediately prior to the effective date of this code, and thereafter continuing to be so licensed.

(b) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the twelve (12) months next preceding date of application, unless such previous license was suspended, revoked or continuation thereof refused by the commissioner.

(c) *Any applicant for license as nonresident agent, subject to reciprocal arrangements as provided for in this code.*

(d) All applicants for license as agent for an insurer that confines its business in this state substantially to the insuring of the property, interests and risks of farmers, if exempted from examination by the commissioner, in his discretion, upon written request of the insurer.

(e) Transportation ticket agents of common carriers applying for license to solicit and sell only:

(i) Accident insurance ticket policies, or

(ii) Insurance of personal effects while being carried as baggage on such common carrier, as incidental to their duties as such transportation ticket agents.

(f) Agents' associations applying for license under section 40-3311.

(g) Title insurance agents."

Amending clause.

Section 12. Section 40-3321, R.C.M. 1947, is amended to read as follows:

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"40-3321. **Special requirements as to solicitors.** (1) A solicitor shall not be appointed or licensed as to more than one *resident* agent. Special requirements of solicitors.

(2) The solicitor's license shall cover all the kinds of insurance, other than life and disability insurance, for which the appointing *resident* agent is licensed; except, that the solicitor's license shall also cover disability insurance where written by a casualty, property, or surety insurer represented by the *resident* agent.

(3) A solicitor shall not concurrently be licensed as *resident* agent except as to life or disability insurance.

(4) A solicitor shall not have authority to bind risks or countersign policies.

(5) The transactions of a solicitor under his license shall be in the name of the *resident* agent by whom appointed, and such *resident* agent shall be responsible for the acts or omissions of the solicitor within the scope of his appointment.

(6) The solicitor shall maintain his office with that of the appointing *resident* agent, and records of his transactions under the license shall be maintained as a part of the records of such *resident* agent.

(7) The solicitor's license shall remain in the custody of the *resident* agent by whom appointed. Upon termination of the appointment, the *resident* agent shall give written notice thereof to the commissioner and deliver the license to the commissioner for cancellation."

Section 13. Section 40-3328, R.C.M. 1947, is amended to read as follows: Amending clause.

"40-3328. **Continuance, expiration of licenses.** (1) All solicitor and edjuster licenses issued under this chapter, all agent licenses as to life and/or disability insurance only, *and all nonresident agent licenses* shall continue in force until expired, suspended, revoked or terminated, but subject to payment to the commissioner annually on or before May 1 of the applicable continuation fee as stated in section 40-2726, accompanied by written request for such continuation. Such request for continuation as to agent licenses for life insurance and/or disability insurance only, shall be made by the insurer in the form of an alphabetical Continuance, expiration of licenses.

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list in duplicate of the names and addresses of its agents whose licenses are to be continued in this state, accompanied by payment of the annual continuation fee therefor as provided in section 40-2726. At the same time the insurer shall also file with the commissioner an alphabetical list in duplicate of the names and addresses of all its agents whose licenses in this state are not to remain in effect. Section 40-3317 (5) shall apply as to any licenses so terminated by the insurer. As to a solicitor's license, such request shall be signed by the agent by whom the license is employed.

(2) Any license referred to in subsection (1) as to which such fee and request for continuation is not received by the commissioner as required in such subsection (1) shall be deemed to have expired as at midnight on May 31 next following. Request for continuation of any such license and/or payment of the continuation fee therefor which is received by the commissioner after such May 1 and prior to the next following June 15, may be accepted and effectuated by the commissioner, in his discretion, if accompanied by an annual continuation fee in twice the amount otherwise required.

(3) The license of an agent as to property or casualty or surety insurance shall continue in force as long as there is in effect as to such agent as shown by the commissioner's records an appointment or appointments, as agent of authorized insurers, covering collectively all of the kinds of insurance included in the agent's license. Upon termination of all of such an agent's agency appointments as to a particular kind of insurance, and failure to secure and file with the commissioner a new appointment as to such kind of insurance within ninety (90) days thereafter, the agent's license shall automatically thereupon expire and terminate as to such kind of insurance and the licensee shall promptly deliver his license to the commissioner for reissuance, without fee or charge, as to the kinds of insurance covered by the agent's remaining appointments.

Temporary licenses excluded.

(4) This section shall not apply to temporary licenses issued under section 40-3319."

Approved: February 20, 1969.

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CHAPTER 45

An Act Amending Section 11-2008, R.C.M. 1947, as Amended by Section 1, Chapter 49, Laws of 1963, Relating to Fire Districts, to Change the Requirements for Giving Notices of Creation or Change of Boundaries of Fire Districts, Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2008, R.C.M. 1947, as amended by Section 1, Chapter 49, Laws of 1963, is amended to read as follows:

Fire protection —creation of fire districts—contracts with cities, towns and private service.

"11-2008. **Fire protection—creation of fire districts—contracts with cities, towns and private service—dissolution and change of boundaries.** (a) The board of county commissioners is authorized to establish fire districts in any unincorporated territory, town or village upon presentation of a petition in writing signed by the owners of fifty per cent (50%) or more of the area of the privately owned lands included within the proposed district who constitute a majority of the taxpayers who are freeholders of such area, and whose names appear upon the last completed assessment roll; the board shall within ten (10) days after the receipt of such petition; give notice of the hearing thereof at least ten (10) days prior thereto *by mailing a copy of the notice by first class mail to each freeholder in the district at the address above shown in the assessment roll,* by causing notices of the time and place of such hearing to be posted in at least three (3) of the most public places within the area proposed to be established as a fire district, and published at least once not less than ten (10) or more than twenty (20) days prior to the time of said hearing in a newspaper regularly published in the county in which such proposed district is situated. The board shall proceed to hear the said petition at the time set therefor, or at any time within five (5) days thereafter to which the same shall have been postponed or continued with due notice, and may grant the same unless it shall be established thereat that the petition bears insufficient signatures as above required, or, if originally sufficient, that by reason of written withdrawals thereof it has become insufficient. The board shall render its decision within thirty (30) days after said hearing. At the time of the

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annual levy of taxes the board of county commissioners may levy a special tax upon all property within such districts for the purpose of buying or maintaining fire protection facilities and apparatus for such districts, or for the purpose of paying to a city, town or private fire service the consideration provided for in any contract with the council of such city, town or private fire service for the purpose of furnishing fire protection service to property within such district, and such tax must be collected as are other taxes. That the relationship between fire district and the city, town or private fire service shall be that of an independent contractor.

Dissolution.

(b) Any fire district organized under this act may be dissolved by the board of county commissioners upon presentation of a petition therefor signed by the owners of fifty per cent (50%) or more of the area of the privately owned lands included within such fire district and who constitute a majority of the taxpayers who are freeholders of such area, and whose names appear upon the last completed assessment roll. The procedure and requirements outlined in subsection (a) above shall apply to such request for dissolution of fire districts.

Change of boundaries—division.

(c) Change of boundaries—division. Fire districts may be divided in the following manner: Whenever a petition in writing shall be made to the county commissioners, signed by the owners of twenty per cent (20%), or more, of the privately owned lands of an area proposed to be detracted from the original district, and who constitute twenty per cent (20%), or more, of the taxpayers who are freeholders within such proposed detracted area, whose names appear upon the last completed assessment roll, the county commissioners shall, within ten (10) days from the receipt of such petition give notice of the hearing of said petition *by mailing a copy of the notice by first class mail to each freeholder in the district at the address shown in the assessment roll,* by causing to be posted, a notice thereof at least ten (10) days prior to the time appointed by them for the consideration of said petition, in at least three (3) of the most public places within the proposed detracted area, and also in at least three (3) of the most public places within the remaining area. The petition for detraction shall describe the boundaries of the proposed detracted area, and also the boundaries of the remaining area. The county commissioners

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shall, on the day fixed for hearing such petition (or on any legally postponed day), proceed to hear said petition; and said petition shall be granted, and the original districts shall thereupon be divided into separate districts, unless at the time of the hearing on such petition protests shall be presented by the owners of fifty per cent (50%), or more, of the area of the privately owned lands included within the entire original district, and who constitute a majority of the taxpayers who are freeholders of the entire original district, and whose names appear upon the last completed assessment roll. If such required amount of protests are presented, the petition for division shall be disallowed. Upon the division of districts, moneys on hand shall be apportioned between the divided areas according to their respective taxable valuations; all other assets of the original district shall become the property of the remaining area, but a reasonable value shall be placed upon such 'other assets' and the remaining area shall become indebted to the detracted area for its proportionate share thereof, based upon taxable valuations. Provided, however, that any detracted area shall remain liable for any existing warrant and bonded indebtedness of the original district.

Change of boundaries—annexation.

(d) Change of boundaries—annexation. Adjacent territory that is not already a part of a fire district may be annexed in the following manner: A petition in writing by the owners of fifty per cent (50%), or more of the area of privately owned lands of the adjacent area proposed to be annexed, and who constitute a majority of the taxpaying freeholders within such proposed area to be annexed, whose names appear upon the last completed assessment roll, shall be presented to the board of county commissioners. The commissioners shall hold a hearing on such petition, in accordance with the procedure outlined in subsection (c) above: and shall allow the annexation of such proposed adjacent territory, unless protests are presented at the hearing by the owners of fifty per cent (50%), or more, of the area of the privately owned lands included within the original district, and who constitute a majority of the taxpaying freeholders within the original district. Such annexed territory shall become liable for any outstanding warrant and bonded indebtedness of the original district.

Adjacent territory that is already a part of a fire dis-

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trict may withdraw from such fire district and become annexed to another fire district in the following manner: A petition in writing by the owners of fifty per cent (50%), or more, of the privately owned lands of an area which is part of any organized fire district, and who constitute a majority of the taxpaying freeholders within such area, according to the last completed assessment roll, shall be presented to the county commissioners asking that such area be transferred to, and included in, any other organized fire district to which said area is adjacent. Said petition must set forth the change of boundaries to be affected by such proposed transfer of area. The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in subsection (c), above; and the withdrawal and annexation shall be allowed unless protests are presented at the hearing by the owners of fifty per cent (50%), or more, of the area of the privately owned lands included within either district affected, and who constitute a majority of the taxpaying freeholders of either district, according to the last completed assessment roll, and provided, that such withdrawals and annexation shall be allowed only upon a showing of more advantageous proximity and communications with the fire fighting facilities of the other district."

Effective immediately.

Section 2. This act shall be effective immediately upon its passage and approval.

Approved: February 20, 1969.

CHAPTER 46

An Act to Amend Section 11-2023, R.C.M. 1947, to Raise the Requirements of a Volunteer Fire Company in Order for the Members of Such Company to Receive Credit for Annual Service Toward Participation in the Volunteer Firemen's Pension Plan.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2023, R.C.M. 1947, is amended to read as follows:

Qualification for compensation.

"11-2023. **Qualification for compensation.** (1) In order to qualify for the compensation provided under sub-

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paragraphs one (1), two (2), three (3) and four (4) of section 11-2022, the fireman must be an enrolled active member of a fire company organized under the laws of the state of Montana in an unincorporated *area,* town or village, at the time of such injury or sickness for which compensation hereunder is claimed.

Participation in pension plan—requirements.

(2) In order to qualify for participation in the volunteer firemen's pension plan under subparagraph five (5) of section 11-2022, a volunteer fireman must meet each of the following requirements:

(A) He must have completed a total of twenty (20) years' service as an active volunteer fireman and as an active member of a qualified volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village; provided, that from and after July 1, 1965, no volunteer fireman shall receive credit for any year of membership in any such volunteer fire company unless throughout such year such volunteer fire company shall have maintained fire-fighting equipment in serviceable condition of a value of *two thousand five hundred dollars ($2,500)* or more, and unless throughout such year such volunteer fire company, or the fire district served thereby, shall have been rated in class five (5), six (6), seven (7), eight (8), nine (9) *or ten (10)* by the board of fire underwriters for the purpose of fire insurance premium rates; provided, further, that such twenty (20) years of active service shall be cumulative and need not be continuous, and that such service need not be acquired with one (1) single fire company, but may be a total of separate periods of active service with different fire companies organized under the laws of the state of Montana in different fire districts in unincorporated areas. towns or villages. From and after passage of this act, the annual period of service for the purpose of this act shall be the fiscal year; no fractional part of any year shall count toward the twenty-year service requirement, and to receive credit for any particular year a volunteer fireman must serve with one (1) particular volunteer fire company throughout that entire fiscal year;

(B) He must have attained the age of fifty-five (55) years (but he need not be an active volunteer fireman or an active member of any volunteer fire company at the time of reaching such age); and

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(C) During each of the twenty (20) years for which he claims credit under subparagraph (A) above, he must have completed a minimum of thirty (30) hours of instruction in matters pertaining to fire fighting, under a program formulated and supervised by the chief of his volunteer fire company. Provided, however, that any volunteer fireman who is an active member of a volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village at the time of passage of this act shall receive credit against the said twenty (20) year service requirement to the extent of one (1) year's credit for each two (2) years' service completed or to be completed by him prior to July 1, 1965, as such active member of any such volunteer fire company or companies; for the purpose of this credit for prior service it shall not be necessary either that the volunteer fire company or companies with which such service has been rendered shall satisfy the requirements of subparagraph (A) above, or that the individual volunteer fireman shall during such prior service have satisfied the requirements of subparagraph (C) above; but in any event no more than ten (10) years' credit shall be allowed any such volunteer fireman by reason of such service prior to July 1, 1965. For the purpose of establishing such prior service credit, the chief of each volunteer fire company shall on or before September 1, 1968, prepare and file with the public employees' retirement system of the state of Montana a certificate, subscribed and verified under oath, setting forth the names and residence addresses of each of the members of his volunteer fire company who shall have qualified for one (1) or more years' credit for prior service, and setting forth the number of years of credit to which each thereof shall be entitled."

Approved: February 20, 1969.

CHAPTER 47

An Act to Provide for Orderly Transition of State Government After the Election of a New Governor by Providing Funds and Other Necessary Assistance for the Governor-elect.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act, unless the context clearly indicates otherwise:

"Governor-elect."

(1) "Governor-elect" means the person elected at a general election to the office of governor who is not the incumbent governor.

Governor-elect to have suitable office space and equipment.

Section 2. The state controller shall provide the governor-elect and his necessary staff with suitable office space in the capitol building, together with furnishings, supplies, equipment, and telephone service for the period between the general election and the inauguration.

Staff—compensation.

Section 3. The governor-elect may obtain the assistance of persons of his own choosing, between the general election and inauguration, and they shall receive reasonable compensation for their services. These persons shall be state employees, but they shall not be subject to any civil service or personnel laws or rules of the state. In addition, the governor-elect may request that the state controller assign one (1) or more employees of the department of administration to assist the governor-elect and his staff in the study and interpretation of information. Employees of the department of administration shall be assigned for the time necessary between the general election and the inauguration.

Funding.

Section 4. The funds necessary to carry out the provisions of this act shall be included in the appropriation request of the state controller to the legislative assembly meeting in regular session immediately prior to a general election when a governor will be chosen.

Approved: February 20, 1969.

CHAPTER 48

An Act Amending Sections 66-403, 66-408, 66-409, 66-411, Relating to the Practice of Barbering, Requiring Apprentice Barbers to Have Attended Approved Barber Schools and Obtain an Apprentice Card From the Board of Barber Examiners, Increasing the Compensation of the Board of Barber Examiners, Increasing

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the Fees Charged for Examinations, Barber's Licenses and Barber Shop Licenses, Changing the Dates of Renewal of Such Licenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-403, R.C.M. 1947, is amended to read as follows:

"66-403. **Licensing and registration of barbers, barber shops, barber schools and barber colleges, prohibiting barber schools and colleges from charging patrons for services.**

Certificate of registration—apprentices—examination.

A. A person is qualified to receive a certificate of registration to practice barbering *only by serving as an apprentice barber and after having successfully passed an examination conducted by the board of barber examiners to determine his or her fitness to practice barbering as defined by section 66-402 of this code.*

An apprentice, for the purpose of this act, is a person who receives instruction in an approved barber school, or college *and* from a barber authorized to practice barbering in the state of Montana.

Application to contain.

Every apprentice must file with the board of barber examiners *an application setting forth the following information:*

(a) Full name and age of apprentice

(b) Name and place of approved barber school

(c) Dates of attendance at approved barber school

(d) Whether or not applicant received a certificate of graduation from an approved barber school

(e) Such other information as the board deems necessary

Apprentice examination.

Each apprentice applicant must successfully pass an apprentice examination conducted by the board of barber examiners and pay to the board the required fee therefor. The board of barber examiners shall then issue an apprentice barbering card which shall expire two years from the date of examination.

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Limitation on practice by apprentice.

B. No registered apprentice may independently practice, or engage in the practice of barbering; provided, however, he may do any and all of the acts which constitute the practice of barbering when so done under the immediate personal supervision of a registered barber.

Approval of barber school.

C. No school, or college, of barbering shall be approved by the board of barber examiners unless it teaches the curriculum of the standardized schools approved by the national education council of barber examiners. Students of said schools or colleges may, after attending such schools for a period of *nine (9)* months, make application to the board of barber examiners for an apprenticeship *card* to practice barbering under the immediate personal supervision of a licensed barber for the period of one (1) year.

Application for barber's certificate.

Upon completion of one year of apprenticeship under the immediate personal supervision of a licensed barber, an apprentice must apply to the board of barber examiners to take the examination for a barber's certificate of registration. An apprentice may take the examination for a barber's certificate of registration as many as three times before expiration of the apprentice card provided herein. Should an apprentice fail to pass the examination for a barber's certificate of registration three times, he shall then surrender the apprentice card to the board of barber examiners and shall not be authorized to do any of the acts which constitute the practice of barbering.

Requirements of barber shop, school or college.

D. A barber shop, school or college must be conducted at a fixed place of establishment; no person or corporation shall open or maintain a barber shop, school or college, or hold himself or itself out as engaging in or conducting a barber shop, school or college, unless first licensed so to do by the board of barber examiners. Every barber school or college, operating within the state of Montana must be in charge of a person who has had ten (10) years' continuous experience as a barber, providing that the owner of such school, or college shall first secure from the board of barber examiners a permit to operate on payment of an annual license fee of fifty dollars ($50.00), and shall keep said permit prominently displayed, and shall, before commencing business file with the secretary of state a bond to the state of Montana, which bond shall be approved by the attorney general,

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in the sum of two thousand dollars ($2,000.00) conditioned upon the faithful compliance of said barber school, or college, with all the provisions of this chapter; and to pay all judgments that may be obtained against said schools, or colleges, or the owners thereof on account of fraud, misrepresentation or deceit practiced by them, or by their agents; provided, further, that barber schools, or barber colleges shall not charge patrons for barbering services and materials rendered; provided, further, that all barber schools, or colleges, shall keep prominently displayed a substantial sign as a barber school, or barber college. Provided, further, that all barber schools, or colleges, upon receiving students shall immediately apply to the board of barber examiners for student permits upon blank forms provided by the board of barber examiners for such purposes.

Aplication for barber shop, school or college.

An application for a barber shop, school or college license shall be in writing and verified on a form provided by the board of barber examiners. Upon receipt of an application for a license hereunder, and upon payment of the initial inspection fee, said board of barber examiners shall cause an investigation and inspection to be made as to the character of the applicant, and upon proper notice and after proper hearing shall report its finds to the secretary of the board of barber examiners, who shall grant a license, if the board of barber examiners finds that the applicant is of good character, and that the proposed barber shop, school or college is equipped and will be conducted as required by this act. Every application must be granted or refused within thirty (30) days from the date of filing of such application or within fifteen (15) days after the close of the hearing upon the application in case a hearing is held.

Barber shop license—issuance.

E. No barber shop license shall be issued in this state to anyone except one who holds a regular valid barber's certificate as provided for by this act, and no barber shop shall be maintained or conducted in this state except by one who holds a barber shop license issued by the board of barber examiners as provided by this act, and this certificate shall not be transferable as to person or place.

Inspection and approval of barber shops, schools or colleges—requirements.

F. Before a license is issued to conduct a barber shop, school or college which shall be established in this state on or after the date this act goes into effect, such bar-

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ber shop, school or college must be inspected and approved by the board of barber examiners and shall meet with the following requirements:

(1) Must have both hot and cold running water connected with city water supply. In villages or towns where running water is not available, hot water tanks shall have not less than two (2) gallon capacity with gravity pressure. Waste water shall be disposed of through some system, carrying it away from the building. This shall be done by sewer connections, or in a manner meeting with the requirements of the state department of health rules and regulations, city ordinances, and having the approval of the city or village board of health, as required by law.

(2) The headrest of every barber chair must be equipped so that each customer will be supplied with clean fresh paper or towel before its use for any person.

(3) Must have a closed cabinet for each chair, to keep instruments in when not in use, and must have proper sterilization equipment for immersing instruments before use on each customer.

(4) Must have sufficient number of towels so that each customer will be served with a clean laundered towel.

(5) Must be well lighted, well ventilated, and kept in a clean, orderly and sanitary condition at all times.

(6) Must pay to the board of barber examiners the required fee.

Barber shops, schools or colleges to be open for inspection.

G. All barber shops, barber schools or colleges shall be open for inspection at any time during business hours, to any member of the board, or its agents or assistants, and it shall be the duty of every owner or manager of a barber shop licensed under this act to make certain that each barber employed therein holds a certificate to practice barbering in Montana, and that all employees observe the sanitary rules of the state department of health and the board of barber examiners and report to the board of barber examiners the name of any person practicing barbering therein, who has a communicable disease.

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Cause for suspension or revocation of license.

H. The board of barber examiners may either refuse to issue or renew, or may suspend or revoke any barber shop, or barber school or college license for any one or combination of the following causes:

(1) The violation of any of the provisions of subdivisions 1, 2, 3, 4, and 5 of subsection F of this section, subsection G of this section, and section 66-405;

(2) Conviction of a felony, shown by a certified copy of the record of the court of conviction;

(3) Gross malpractice or gross incompetency;

(4) Continued practice by a person knowingly having an infectious or contagious disease;

(5) Advertising by means of knowingly false or deceptive statements;

(6) Advertising, practicing or attempting to practice under a trade name other than one's own;

(7) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs;

(8) The commission of any of the offenses described in section 66-409.

Petition to district court.

I. Any applicant whose license has been refused, suspended or revoked by the board of barber examiners under this act may within ten (10) days of such action file a petition in the district court in the county in which the applicant resides. The licensee shall be named as plaintiff and the board of barber examiners as defendant. Said court shall have jurisdiction after notice to the board of barber examiners to hear and determine said petition in a summary manner, and to reverse, vacate or modify the order of the board of barber examiners complained of, if upon consideration of the record, such court is of the opinion that such order was unlawful or unreasonable. The trial of the district court upon such an appeal shall be de novo. The decision of the board of barber examiners shall not be stayed by the proceedings on appeal and such appeal shall not operate to restore the right of the licensee to operate a barber shop pending such appeal. The attorney general shall defend said action of the board of barber examiners on behalf of the state; but the county attorney of the county where the

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petition is filed, at the request of the attorney general, shall appear and defend such action."

Amending clause.

Section 2. Section 66-408, R.C.M. 1947, is amended to read as follows:

Compensation, funds and reports.

"66-408. **Compensation, funds and reports.** Each member of the board shall receive a compensation of *twenty-five dollars ($25.00)* per day while attending board meetings together with legitimate and necessary expenses incurred in attending the meeting of said board.

The board of barber examiners shall be self-sustaining financially and no funds of the state shall be paid for the operation and maintenance of said board. The disbursements of said board shall be paid upon the warrant of the president and secretary.

The board shall make an annual report of its proceedings and moneys expended by it to the governor of the state for the year ending on the *30th day of June* preceding the making of said report."

Amending clause.

Section 3. Section 66-409, R.C.M. 1947, is amended to read as follows:

Powers and duties.

"66-409. **Powers and duties.** (1) The board of barber examiners shall conduct practical examinations of applicants for *apprentice cards and for* certificates of registration to practice as registered barbers, not less than four (4) times each year at such time and places as the board of barber examiners may determine. Said *examinations* shall cover the fundamentals of barbering, dermatology and sanitation. The board of barber examiners shall issue all *apprentice cards and* certificates of registration. The board of barber examiners may, at its discretion, appoint inspectors with authority to inspect barber shops, their compensation to be the same as provided for members of the board of barber examiners while engaged in said duties.

(2) The board of barber examiners shall have power to approve price agreements, establishing minimum prices for barber work, signed and submitted to the board of barber examiners by any organized group or groups of at least 75 per cent of the barbers in any city or town, within the state of Montana, should the board of barber examiners, after ascertaining by such investigations and proofs

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as the condition permits and requires, find that such price agreement is just and under varying conditions will best protect the public health and safety by affording a sufficient minimum price for barber work to enable the barbers to furnish modern and healthful services and appliances so as to minimize the danger to the public health incident to such work. For the purpose of this act, a city or town shall be deemed to include, in addition to the territory within its legal limits, the territory adjacent to it and lying within three miles of said legal limits. In determining whether any such price agreement is just and will best protect the public health and safety, the board shall take into consideration all conditions affecting the barber business in its relation to the public health and safety.

(3) In determining reasonable minimum prices the board of barber examiners shall take into consideration the necessary cost incurred in the city or town in maintaining a barber shop in a clean, healthful and sanitary condition.

(4) The board of barber examiners, after making such investigation, shall fix by official order the minimum price for all work usually performed in a barber shop within the city or town in which such price agreement has been signed. The board of barber examiners may upon the petition of 50% of the barbers of the said city or town readjust the minimum prices and such new prices must be approved by 75% of the barbers in the city or town. Provided, further, that this section shall not apply to students who have been enrolled less than six months in any barber college in the state of Montana or until they become apprentice barbers.

The board of barber examiners shall have authority to make necessary rules and regulations for the administration of the provisions of this act not inconsistent with this act nor the laws of the state."

Amending clause.

Section 4. Section 66-411, R.C.M. 1947, is amended to read as follows:

Fees to be paid by apprentices, students, barbers and barber shops.

"66-411. **Fees to be paid by apprentices, students, barbers and barber shops.** *(1) The fee to be paid by an apprentice for an apprentice examination and an apprentice card shall be twenty-five dollars ($25.00).* The fee to

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be paid by an applicant for an examination to determine his or her fitness to receive a certificate of registration to practice barbering as defined in this act, shall be *twenty dollars ($20.00),* and for the issuance of said certificate an additional *five dollars ($5.00).*

(2) Each person registered as a barber or barber apprentice, shall on or before the first day of July of each year pay a license fee of *five dollars ($5.00)* for the renewal of his or her certificate of registration, and if any barber shall fail to have such certificate renewed on or before the first day of *July* of each year such barber shall upon the renewal of said certificate of registration pay a penalty, or a restoration fee of *ten dollars ($10.00),* in addition to the regular fee of *five dollars ($5.00)* provided for herein, and if a certificate of registration is not renewed within one year after date of expiration thereof, such barber shall not be entitled to have such certificate of registration renewed, or a new certificate of registration issued, without first applying for and taking the examination and paying the fees provided for by this section. Provided, further, however, that physically handicapped men and women, trained for the barber profession by the state bureau of civilian rehabilitation and certified by that department as having successfully completed a *nine (9) months' course in a reputable barber* college will not be required to pay any fees, but will for a period of one (1) year immediately following their training be exempted from all except the sanitary provisions of the barber act, or any of its amendments, and provided, further, that no other or additional license, or fee, shall be imposed upon barbers, or barber apprentices, by any municipality or other subdivision of the state of Montana.

(3) In addition to the fees and charges now provided by existing law, all barber shops heretofore established, and which have been under the inspection of the board of barber examiners, shall pay an annual license fee of three ($3.00) dollars. Barber shops hereafter established shall pay an initial inspection fee of fifteen ($15.00) dollars for the first year or portion thereof, and shall pay an annual license fee of three ($3.00) dollars.

(4) All barber shops, schools or college licenses shall expire on the *first day of July* of each year, following

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the issuance of said license, and every owner or manager of a barber shop, school or college which continues in active operation shall annually, on or before *July 1st* renew his barber shop, school or college license and pay the required fee. *For the first year this act is in effect, all licenses which expire on the thirty-first day of May shall be deemed in force until the first day of July.*

Every barber shop *which shall fail to have such license renewed on or before the 1st day of July of each year shall upon the renewal thereof pay a penalty, or a restoration fee, of ten ($10.00)* dollars, and *each* barber school or college *which shall fail to have such license renewed on or before the 1st day of July of each year shall upon the renewal thereof pay penalty, or restoration fee, of* fifty-five ($55.00) dollars."

Approved: February 20, 1969.

CHAPTER 49

An Act Requiring Any Person Who Prepares Prescriptions, Drugs, Medicines, Chemicals or Poisons to Place the Name of the Drug on the Label: Amending Section 66-1523, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-1523, R.C.M. 1947 is amended to read as follows:

Wrongful labeling prohibited.

"66-1523. **Wrongful labeling.**

(1) It shall be unlawful for any person who prepares prescriptions, drugs, medicines, chemicals or poisons willfully, negligently or ignorantly to omit to label the package or receptacle, label it falsely, substitute an article different from the one ordered or deviate in any manner from the requirements of an order or prescription."

Name and strength of drug required.

(2) On prescription drugs, the label shall contain the name and strength of the drug, unless the prescriber otherwise specifies.

Approved: February 20, 1969.

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CHAPTER 50

An Act Amending Section 11-4101, R.C.M. 1947, to Include Recreation or Tourist Facilities, and Hospitals, Long-Term Care Facilities or Medical Facilities, Within the Definition of Projects Authorized to be Funded With the Use of Industrial Development Revenue Bonds and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-4101 of the Revised Codes of Montana, 1947, is hereby amended to read as follows: Amending clause.

"11-4101. **Definition of terms.** As used in this act, unless the context otherwise requires: (1) Municipality shall mean any incorporated city or town in the state; "Municipality."

(2) Project shall mean any land, any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use for manufacturing or industrial enterprises, *recreation or tourist facilities, and hospitals, long-term care facilities or medical facilities;* "Project."

(3) Governing body shall mean the board or body in which the general legislative powers of the municipality or county are vested; and "Governing body."

(4) Mortgage shall mean a mortgage or a mortgage and deed of trust, or other security device." "Mortgage."

Section 2. This act shall be in force and effect from the date of its passage and approval. Effective immediately.

Approved: February 20, 1969.

CHAPTER 51

An Act to Provide for Summary Proceedings in Lieu of Probate for Specified Estates of Less than Ten Thousand Dollars.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. If a resident decedent leaves a surviving spouse or minor child or minor children, and the net value Estates less than $10,000; summary proceeding.

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of the whole estate, over and above all liens and encumbrances at the date of death and over and above the value of any homestead interest set apart out of decedent's estate under Chapter 25, Title 91, R.C.M. 1947, does not exceed the sum of ten thousand dollars ($10,000), the same may be set aside to the surviving spouse, if there be one, and if there be none, then to the minor child or minor children of the decedent.

Determination of estate value.

Section 2. The value of decedent's interest in any joint property at the time of his death, which might give rise to tax liability under section 91-4405, R.C.M. 1947, and the value of any property transferred by the decedent during his lifetime which might give rise to tax liability under section 91-4402, R.C.M. 1947, shall be included to determine if the net value of the whole estate of the decedent does exceed the sum of ten thousand dollars ($10,000) as provided in the preceding section.

Proceedings may be combined.

Section 3. An action or proceedings to terminate a life state or joint tenancy may be combined with an action or proceedings to set aside property under this act, where otherwise proper under the provisions of this act, and of section 91-4321, R.C.M. 1947.

Allegations of application.

Section 4. Allegations showing that this act is applicable together with a prayer that the estate be set aside as provided in this act may be included alternately in the petition for probate of the will, or for letters of administration; or such allegations and prayer may be presented by separate petition filed by the personal representative of the decedent, or the surviving spouse, or the guardian of the minor child or children, filed at any time before the hearing on the petition for the probate of the will or for letters of administration or after the filing of the inventory. In all cases the petition must be verified; and the allegation shall include a specific description and an estimate of the value of all of the decedent's property, a list of all liens and encumbrances at the date of death, and a designation of any property as to which a homestead is or may be set aside.

Allegations to be included in petition.

Section 5. If the allegations and prayer as provided in the preceding section are included in the petition for probate of the will or for letters of administration, the notice of hearing shall include a statement that a prayer for setting aside the estate to the surviving spouse or the

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minor child or minor children as the case may be, is included in the petition.

Separate petitions —hearing.

Section 6. If a separate petition is filed under the provisions of this act, notice thereof shall be given in the manner and for the time required for a petition for letters of administration. If a separate petition for probate of the will of the decedent, as for letters of administration of his estate, be filed, such petitions shall be heard at the same time as a position under this act, and for that purpose the court may continue the hearing on any such petition, so that at least ten (10) days notice is given for each such petition pending before the court.

Special appraiser.

Section 7. Upon the filing of any petition provided for in this act, unless the whole estate consists of money, the court shall forthwith appoint a special appraiser as provided in section 91-4427, R.C.M. 1947, who shall have the duty, powers and compensation provided by law with respect to the property described in such petition.

Net value of estate less than $10,000—assignment to surviving spouse or children.

Section 8. If upon the hearing of any petition provided for by this act, the court finds that the net value of the estate of the decedent, determined as provided in this act, does not exceed the sum of ten thousand dollars ($10,000), as of the date of death of the decedent, and that the expenses of the last illness, funeral and burial charges and expenses of administration and all other creditors have been paid, it shall, by decree for that purpose, assign such estate to the surviving spouse; if there be no such surviving spouse, at the time of such decree, then to such child or children as may then be minors; all subject to whatever mortgages liens or encumbrances upon such estate there may be at the time of the death of the decedent. The title to such estate so assigned or set aside shall vest absolutely in the person or persons named in the decree, subject to mortgages, liens or encumbrances as here provided, and there must be no further proceedings in the administration, unless further estate be discovered. But no surviving spouse or minor child shall be entitled to such an assignment where the net value of the whole estate transferring to them from the decedent including the value of decedent's interest in any joint property owned by the decedent at the time of his death, and the value of any property transferred by the decedent in contemplation of decedent's death, exceeds, as

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to such spouse, or such minor child, respectively, the exemptions provided for them in section 91-4414, R.C.M. 1947.

Decree is final determination.

Section 9. In the absence of fraud in the procurement, a decree assigning an estate pursuant to the provisions of this act, when it becomes final, is a conclusive determination of the jurisdiction of the court, except when based upon an erroneous assumption of death, and cannot be collaterally attacked.

Net value of estate greater than $10,000—procedure.

Section 10. If the court finds that the net value of the estate determined as provided in this act exceeds the sum of ten thousand dollars ($10,000) or that the surviving spouse, or minor child or minor children, are not entitled to an assignment under this act, or that there is neither a surviving spouse or surviving minor child of the decedent, the petition to set aside property of the decedent shall be denied, and the estate shall be then administered in the usual manner.

Estates excluded from act.

Section 11. This act shall not apply to estates of decedents filed or pending in any court prior to the effective date of this act.

Saving clause.

Section 12. This act shall not be construed to repeal any other existing statutes relating to probate proceedings.

Approved: February 20, 1969.

CHAPTER 52

An Act to Provide for the Imposition of a Penalty of Twenty-Five Dollars ($25) in the Case of Any Special Fuel Dealer or Special Fuel User Who Refuses or Fails to File a Return; Amending Section 84-1835, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1835, R.C.M. 1947, is amended to read as follows:

Monthly returns and payments—returns.

"84-1835. **Monthly returns and payments.** (a) Returns: For the purpose of determining the amount of his liability for the tax herein imposed, each special fuel dealer and each special fuel user shall file with the board, on forms prescribed by said board, a monthly tax return.

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Such return shall contain a declaration by the person making the same, to the effect that the statements contained are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification. The return shall show such information as the board may reasonably require for the proper administration and enforcement of this act; provided, however, that if a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle, and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the monthly return to the board need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made. The special fuel dealer or special fuel user shall file the return on or before the twenty-fifth (25th) day of the next succeeding calendar month following the monthly period to which it relates; provided, however, that for good cause the board may grant a taxpayer a reasonable extension of time for filing, but not to exceed thirty (30) days.

If the final filing date falls on a Saturday, Sunday or legal holiday, the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date or as provided in this chapter.

Computation.

(b) **Computation:** The tax imposed by this act shall be computed as follows: (1) with respect to special fuel used by the seller thereof as a special fuel dealer, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel delivered or placed by him into the supply tank or tanks of a motor vehicle, (2) with respect to special fuel as to which the tax has not been paid to a special fuel dealer in this state and which has been consumed by the purchaser thereof as a special fuel user, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel consumed by him in the propulsion of motor vehicles on the highways of this state.

Payments.

(c) **Payments:** The monthly tax return shall be accompanied by remittance covering the tax due hereunder on account of the use as defined in 84-1831 (f) of special fuels during the preceding month.

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Failure to file return or pay tax.

(d) **Refusal or failure to file return or pay tax when due**: In case of any special fuel dealer or special fuel user who refuses or fails to file a return required by this act within the time prescribed by subsection (a) of this section, there is hereby imposed a penalty of *twenty-five dollars($25)* or a sum equal to twenty-five per cent (25%) of the tax due, whichever is greater, together with interest at the rate of one per cent (1%) on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues; provided, however, that if any such special fuel dealer or special fuel user shall establish to the satisfaction of the board that his failure to file a return within the time prescribed was due to reasonable cause, the board shall waive the penalty provided by this subsection.

Failure to pay tax.

(e) **Failure to pay tax**: Where a special fuel dealer or a special fuel user files a return, but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate of one per cent (1%) per month or fraction thereof, from the date such tax was due to the date of payment in full thereof.

Deficiency.

(f) **Deficiency**: If it be determined by the board that the tax reported by any special fuel dealer or special fuel user is deficient, it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency interest at the rate of one per cent (1%) per month or fraction thereof from the date the return was due.

Determination if no return made.

(g) **Determination if no return made**: If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the board shall, on the basis of information available, to it, determine the tax liability of the special fuel dealer or special fuel user for the period during which no return was filed, and to the tax as thus determined, the board shall add the penalty and interest provided in subsection (d) above.

An assessment made by the board pursuant to this subsection or to subsection (f) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be

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on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(h) **Fraudulent return**: If any special fuel dealer or special fuel user shall file a false or fraudulent return with intent to evade the tax imposed by this act, there shall be added to the amount of deficiency determined by the board a penalty equal to twenty-five per cent (25%) of the deficiency together with interest at one per cent (1%) per month, or fraction thereof, on such deficiency from the date such tax was due to the date of payment, in addition to all other penalties prescribed by law. Fradulent return.

(i) **Limitation**: Except in the case of a fraudulent return or of neglect, or refusal to make a return, every deficiency shall be assessed under subsection (f) above within five (5) years after the twenty-fifth day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within five (5) years after the return is filed, whichever period expires the later." Limitation.

Section 2. This act shall be effective on its passage and approval. Effective immediately.

Approved: February 20, 1969.

CHAPTER 53

An Act to Establish the Montana Constitution Revision Commission to Study the Montana Constiution.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. (1) A temporary state agency known as the Montana constitution revision commission consisting of sixteen (16) members is hereby created to study the Montana constitution. Members of the commission shall be appointed for two (2) year terms beginning Apirl 1, 1969, consideration being given to geographic, economic, and other pertinent factors, as follows: Creation of Montana constitution revision commission —members —appointments —terms.

(a) four (4) members of the house of representatives appointed by the speaker, no more than two (2) of whom shall be affiliated with the same political party;

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(b) four (4) members of the senate appointed by the committee on committees, no more than two (2) of whom shall be affiliated with the same political party;

(c) four (4) members appointed by the governor, no more than two (2) of whom shall be affiliated with the same political party;

(d) four (4) members appointed by the supreme court, no more than two (2) of whom shall be affiliated with the same political party.

Expenses.

(2) Commission members who are not government employees or elective officials shall be reimbursed for actual and necessary expenses incurred as commission members. However, the term "elective officials", as used in this subsection, excludes members of the legislative assembly.

Duties of commission.

Section 2. (1) The commission shall conduct a detailed study of the Montana constitution, compile factual data on whether the constitution impairs effective state government, compare the Montana constitution with those of other states and publish a written report to the forty-second legislative assembly prior to September 1, 1970. The report shall contain the findings of the commission, recommendations, a draft of any proposals for change in the Montana constitution, and recommendations of the most feasible and desirable method of implementing any proposals for change.

(2) The commission may publish progress and other reports during its study and disseminate information on the constitution as deemend desirable. Upon request, commission members shall meet with the legislative council, governor, and supreme court to report progress on the study.

Officers—staff and assistance.

Section 3. (1) The commission shall elect a chairman and other necessary officers, and shall establish its own rules relating to procedures, meetings, and quorums.

(2) The commission shall maintain a written record of its proceedings and its finances which shall be open to inspection by any person at the office of the commission during regular office hours.

(3) The commission may employ any necessary staff,

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assign their duties, and fix their compensation. Staff appointed shall serve at the pleasure of the commission.

(4) The commission may retain special consultants, appoint advisory groups, and consult with or request assistance from any state agency, private group, or individual deemed desirable.

(5) Upon request, state agencies shall cooperate with the commission by furnishing assistance and data to the extent possible.

Section 4. The commission may accept and expend any federal or private funds which may be available for support of the study. Finances.

Section 5. This act is effective on its passage and approval. Effective immediately.

Approved: Feburary 20, 1969.

CHAPTER 54

An Act Providing for Inspection of Livestock Before Removal From a County in Montana and Providing for Exceptions Thereto and Further Providing for Inspection of Livestock Before Removal From a County to a Point Outside of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-801, Revised Codes of Montana 1947, is hereby amended to read as follows: Amending clause.

"46-801. **Inspection of livestock before removal from county.** (1) Except as in this act otherwise provided, it shall be unlawful to remove or cause to be removed from any county in this state any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly, by means of any railroad car, motor vehicle, trailer, horse-drawn vehicle, boat or in any manner whatsoever unless such animal shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate of such inspection shall have been issued in connection with and for the purpose of such transportation or removal as in this act provided. Such inspection must be made in daylight. Inspection of livestock before removal from county.

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(2) It shall be unlawful to sell or offer for sale at a livestock market any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly originating within any county in the state of Montana in which a livestock market is maintained, or transported under a market consignment permit until such animal has been inspected for marks and brands by a state stock inspector, as in the act provided.

(3) It shall be unlawful to remove or cause to be removed any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly from the premises of any livestock market in this state unless such animal shall have been inspected for marks and brands by a state stock inspector and an inspection certificate for such animal shall have been issued in connection with and for the purpose of such removal from the premises of such livestock market, as in this act provided.

(4) The person in charge of any such cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal, or filly being removed from any county in this state, where inspection thereof is required by this act or when moved under a market consignment permit shall have in his possession the certificate of inspection or market consignment permit issued in connection therewith ,and shall exhibit the same to any sheriff, deputy sheriff, constable, highway patrolman, state stock inspector or deputy state stock inspector at the request of either of them and the provisions of section 46-803 shall be extended to livestock transported under the abovementioned permits.

(5) In case of saddle, work or show horse or horses being transported from county to county within the state by the owner thereof for his personal use or business and where there is no change of ownership, the inspection certificate as required by this act, may be endorsed as to purpose and extent of transportation by the inspector issuing same in order to serve as a travel permit within the state for a period not to exceed one year for the horse or horses described thereon. Such permit becomes void upon any transfer of ownership or if such horse or horses are to be removed from the state. In such instances an inspection must be secured for removal and the endorsed certificate surrendered.

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In case of registered purebred cattle being transported from county to county within the state by the owner thereof for show purposes and where there is no change of ownership, the inspection certificate as required by this act, may be endorsed as to purpose and extent of transportation by the inspector issuing same in order to serve as travel permit within the state for a period not to exceed one year for the cattle described thereon. Such permit becomes void upon any transfer of ownership or if such cattle are to be removed from the state. In such instances an inspection must be secured for removal and the endorsed certificate surrendered.

(6) The provisions of section 1 of this act(this section) shall not apply, Exclusions.

(a) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly being transported through the state in interstate commerce without leaving the custody of the carrier;

(b) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly transported by railroad consigned to and which, without leaving the custody of the carrier, does reach a market at which the livestock commission of the state of Montana regularly maintains a stock inspector, and for which animal a loading tally has been filed by the shipper with the carrier as provided in section 46-1008;

(c) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly when driven on the hoof and not moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat, by the owner of one (1) county to the next adjoining county within the state of Montana on to land owned or controlled by the owner of livestock so moved for the purpose of pasturing, feeding or changing the range thereof;

(d) to any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly when driven on the hoof or moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat, by the owner from one (1) county to the next adjoining county within the state of Montana on to land owned or controlled by the owner of livestock without leaving land owned or controlled by such

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owner when moved for the purpose of pasturing, feeding, or changing the range thereof;

(e) to any animal or animals when driven on the hoof from one (1) county to an adjoining county within the state for the purpose of shipment by railroad or delivery to a licensed public market by any person who has been the owner of said animal or animals for a period of at least three (3) months;

(f) to any such animal or animals from one (1) county to be consigned to, and which actually reach by means other than railroad a licensed livestock market located in another county of the state at which the livestock commission of the state of Montana regularly maintains a stock inspector, and for which a market consignment permit has been obtained in a manner provided by law;

(g) to any such animal or animals when hauled by truck or trailer from one county to an adjoining county within the state for the purpose of shipment by railroad at which shipping point the livestock commission of the state of Montana maintains a stock inspector or where a deputy state stock inspector is available, and for which a transportation permit has been obtained in the manner provided by law.

(7) Except as provided for in section 6 (a) and 6 (b) of this act, nothing contained in this chapter shall authorize or permit any person to remove or cause to be removed any animal or animals from any county in this state to a location outside of the state of Montana on the hoof, or by any means or manner whatsoever, unless such animal or animals shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate for such inspection shall have been issued in connection with and for the purpose of such transportation or removal as in this act provided.

Duty to secure inspection of livestock.

(8) It shall be the duty and responsibility of any person in possession of livestock to secure such inspection of livestock as provided in this chapter before any livestock shall leave the state of Montana."

Approved: February 20, 1969.

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CHAPTER 55

An Act to Amend Section 31-129, R.C.M. 1947, Changing the Age Limit for Instruction Permits so as not to Conflict with Driver License Age Limits; Deleting the Authorization for the Holder of an Instruction Permit to Operate a Motorcycle.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 31-129, R.C.M. 1947, is amended to read as follows: Amending clause.

"31-129. **Instruction permits and temporary licenses.** (a) Any person *satisfying the age requirements specified in 31-127 (1),* may apply to the board for an instruction permit. The board may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the public highways for a period of six (6) months when accompanied by a licensed operator or chauffeur who is occupying a seat beside the driver. Instruction permits and temporary licenses.

(b) The board upon receiving proper application may in its discretion issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a driver-training program approved by the board even though the applicant has not reached the legal age to be eligible for an operator's license. Such instruction permit shall entitle the permittee when he has such a permit in his immediate possession to operate a motor vehicle only on a designated highway or within a designated area but only when an approved instructor is occupying a seat beside the permittee.

(c) The board may in its discretion issue a temporary driver's permit to an applicant for an operator's license permitting him to operate a motor vehicle while the board is completing its investigation and determination of all facts relative to such applicant's right to receive an operator's license. Such permit must be in his immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused."

Approved: February 20, 1969.

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CHAPTER 56

An Act to Repeal Section 26-401, R.C.M., 1947, Relating to Beaver Trapping, Licensing, and Protection, Thereby Placing Such Beaver Management Under the General Fish and Game Statutes of this State Relating to Fur-Bearing Animals.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Section 26-401, R.C.M. 1947, is repealed.

Effective date.

Section 2. This act shall be in full force and effect from and after September 1, 1969.

Approved: February 20, 1969.

CHAPTER 57

An Act Allowing for the Closure of the Hunting or Fishing Season During Periods of Extreme Fire Danger.

Be it enacted by the Legislative Assembly of the State of Montana:

Closure of hunting and fishing when five danger extreme.

Section 1. When the fire danger becomes so extreme that the governor of the state of Montana upon the advice and recommendation of the Montana state forester closes an area to trespass because of fire danger, that area shall automatically become closed to any hunting or fishing and shall remain closed so long as the fire closure remains in effect.

Approved: February 20, 1969.

CHAPTER 58

An Act Appropriating Moneys from the Montana Judges' Retirement Account to the Public Employees' Retirement Board for Reimbursement of the General Fund for Costs of Administering the Judges' Retirement Fund During the Fiscal Biennium Ending June 30, 1969.

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Be it enacted by the Legislative Assembly of the State of Montana:

Cost of administration of judges' retirement account appropriated to P.E.R.S. and reimbursement of general fund.

Section 1. There is appropriated from the Montana judges' retirement account to the public employees' retirement board the amount, not in excess of three thousand dollars ($3,000), computed by the board as the cost of administering the Montana judges' retirement system during the fiscal biennium ending June 30, 1969.

Section 2. Before July 15, 1969, the board shall compute the costs of administering the Montana judges' retirement system during the fiscal biennium ending June 30, 1969 and pay that amount, not in excess of three thousand dollars ($3,000), to the state treasurer to the credit of the state general fund.

Approved: February 20, 1969.

CHAPTER 59

An Act Amending Section 91-1405, R.C.M. 1947, Providing that a Nonresident Otherwise Entitled to Serve as Administrator of a Decedent's Estate May Nominate a Resident to Serve as Administrator.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-1405, R.C.M. 1947, is amended to read as follows:

Who are incompetent to act as administrators.

"91-1405. **Who are incompetent to act as administrators.** No person is competent or entitled to serve as administrator or administratrix who is:

1. Under the age of majority.

2. Not a bona fide resident of the state; but if a person otherwise entitled to serve is not a resident of the state, *he may nominate a resident of the state to serve as administrator,* and the court or judge must order letters issued to the *nominee.*

3. Convicted of an infamous crime.

4. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity."

Approved: February 21, 1969.

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CHAPTER 60

An Ac to Repeal Section 84-1813, R.C.M. 1947, and to Reenact Its Language as a New Section for the Purpose of Removing the Statute Establishing a Tax on Diesel Fuel from the Gasoline License Tax Laws and Its Proper Placement in the Laws Pertaining to Special Fuel Taxes; and Amending Section 84-1832, R.C.M. 1947, to Change the Reference to Section 84-1813 Therein to 84-1832.1.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Section 84-1813, R.C.M. 1947, is repealed.

Section 2. There is a new section in Title 84, Chapter 18, which is to read as follows:

When tax to be collected on diesel fuel.

84-1832.1. **Tax to be collected on diesel fuel, when.** The state board of equalization shall, under the provisions of rules and regulations issued by said board, collect or cause to be collected from the owners or operators of motor vehicles a tax in an amount equal to nine cents

9c per gallon.

(9c) for each gallon of diesel fuel or other volatile liquid, of less than forty-six degrees (46°) A.P.I. (American Petroleum Institute) gravity test, when actually sold or used to produce motor power to propel motor vehicles upon the public highways or streets within the state of Montana, or used in motor vehicles, motorized equipment and the internal combustion of any and all engines including stationary engines used in connection with any and all work performed under any and all contracts pertaining to the construction, reconstruction or improvement of any highway or street and their appurentances awarded by any and all public agencies, including federal, state, county, municipalities, or other political subdivision.

Amending clause.

Section 3. Section 84-1832, R.C.M. 1947, is amended to read as follows:

Tax imposed on special fuel used in motor vehicles operated upon the highways.

"84-1832. **Tax imposed.** There is hereby levied and imposed a tax on the use of each and every gallon of special fuel in any motor vehicle while operated upon the highways, equivalent to the lawful tax levied on motor fuel under section *84-1832.1,* or on liquid petroleum gases under section 84-1802. Said tax, with respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles in this state, shall attach at the time of such

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delivery and shall be collected by such special fuel dealer from the special fuel user and shall be paid over to the board as hereinafter provided. Said tax, with respect to special fuel acquired by any special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle, shall attach at the time of the consumption of such fuel in the propulsion of a motor vehicle upon the highways of the state and shall be paid over to the board by the special fuel user as hereinafter provided. The various counties, incorporated cities and towns and school districts of this state shall be exempt from the levy and imposition of this tax.''

Approved: February 21, 1969.

CHAPTER 61

An Act Amending Sections 84-1833 and 84-1835, R.C.M. 1947, to Establish Bond Requirements, and to Provide for Timely Filing by Mail and for Application for Waiver of Filing of Monthly Tax Returns, Pertaining to Special Fuel Users.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1833, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1833. **Special fuel dealers' and special fuel users' licenses and special fuel vehicle permits.** (a) **Required:** It shall be unlawful for any person to act as a special fuel dealer in this state unless such person is the holder of an uncanceled fuel dealers' license issued to him by the board. Special fuel dealer's and special fuel users' licenses and special fuel vehicle permits—required.

Every special fuel user shall obtain from the board, prior to the use of such special fuel for the propulsion of a motor vehicle or vehicles in this state, a special fuel user's license, and a special fuel vehicle permit for each such vehicle or vehicles operated by him upon the highways as herein defined, which permit shall at all times be carried in the vehicle for which it was issued, and shall be exhibited for inspection on request of any checking station officer, Montana highway patrol officer, any member of the state board of equalization or any authorized

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employee of said board, or any other law enforcement officer.

Application.

(b) **Application**: Application for a special fuel dealer's license, a special fuel user's license, or a special fuel vehicle permit shall be made to the board.

Form of application.

(c) **Form of application**: The application shall be filed upon a form prepared and furnished by the board. The application shall contain such information as the board deems necessary.

Bond.

(d) **Bond**: No special fuel dealer's license or special fuel user's license shall be issued to any person or continued in force unless such person has furnished bond, as defined in section 84-1831 (i) and in such form as the board may require to secure its compliance with this act, and the payment of any and all taxes, interest and penalties due and to become due hereunder. *Upon application the board may waive the bond requirement of any special fuel user who establishes to the reasonable satisfaction of the board that no tax, interest or penalties are accrued under the provisions of this act.*

The total amount of the bond or bonds required of any special fuel dealer or special fuel user shall be equivalent to twice his estimated monthly tax payments as hereinafter provided, determined in such manner as said board may deem proper; provided, however, that the total amount of the bond or bonds shall never be less than *five thousand dollars ($5,000.00) for any special fuel user awarded a contract in accordance with section 84-1832.1, nor less than five hundred dollars ($500.00) for any other special fuel user;* and not less than one thousand dollars ($1,000.00) for a special fuel dealer.

Issuance.

(e) **Issuance**: Upon receipt of the application and bond in proper form, the board shall issue to the applicant a license to act as a special fuel dealer or special fuel user or a special fuel vehicle permit; provided, however, the board may refuse to issue a special fuel dealer's license, a special fuel user's license or a special fuel vehicle permit to any person: (1) who formerly held either type of license or permit which, prior to the time of filing application has been revoked for cause; or (2) who is not the real party in interest and where the license or permit of the real party in interest has been revoked for cause

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prior to the time of filing such application; or (3) upon other sufficient cause being shown. Before such refusal, the board shall grant the applicant a hearing and shall grant him at least ten (10) days' written notice of the time and place thereof.

Expiration of license or permit.

(f) **Expiration of license or permit**: Each special fuel dealer's license, special user's license and special fuel vehicle permit shall be valid until suspended or revoked for caues or otherwise canceled.

Assignment forbidden.

(g) **Assignment forbidden**: No special fuel dealer's license, special fuel user's license or special fuel vehicle permit shall be transferable.

Revocation, suspension, cancellation and surrender of license and permit.

(h) **Revocation, suspension, cancellation and surrender of license and permit**: The board may revoke the license of any special fuel dealer or special fuel user or any special fuel vehicle permit for reasonable cause. Before revoking such license or permit, the board shall notify the licenses or permittee of its intention so to do, by either certified or registered mail, addressed to his last known address shown in the files of the board, requiring him to appear before the board on a day and hour specified in such notice, not more than thirty (30) days nor less than ten (10) days from date of such notice, and show cause, if any he has, why the license or the permit, or each of them, should not be revoked; provided, however, that at any time prior to and pending such hearing the board may, in the exercise of reasonable discretion, suspend such license or permit.

Upon revocation by the board of any such license or permit, the holder thereof shall immediately surrender the same to the board for cancellation; and the holder of any such permit, having permanently discontinued the use of any vehicle for which the permit was issued, for whatever reason, shall immediately surrender the same to the board for cancellation.

The board shall cancel any license to act as a special fuel dealer or a special fuel user or any special fuel vehicle permit immediately upon surrender thereof by the holder.

Release of surety.

(i) **Release of surety**: Any surety on a bond furnished by a special fuel dealer or special fuel user as pro-

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vided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the board a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty (30) day period. The board shall promptly upon receiving any such request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user shall, on or before the expiration of the thirty (30) day period, file a new bond, in accordance with the requirements of this section, or make a deposit in lieu thereof as provided in section 84-1831 (i), the board forthwith shall cancel the special fuel dealer's or special fuel user's license.

Additional bond or deposit.

(j) **Additional bond or deposit**: The board may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the character specified in section 84-1831 (i), if, in its opinion, the security of the surety bond theretofore filed by such special fuel dealer or special fuel user, or the market value of the properties deposited as security by such special fuel dealer or special fuel user, shall become impaired or inadequate; and upon failure of the special fuel dealer or special fuel user to give such new additional surety bond or to deposit additional securities within thirty (30) days after being requested so to do by the board, said board forthwith shall cancel his license.

Special fuel tax shall be a lien upon property of dealer.

(k) All special fuel taxes due from any dealer or user under the provisions of this act, together with all penalties and interest thereon shall be a lien upon any and all property of such dealer, user or other person upon the filing by the state board of equalization of a duplicate copy of the statement so made by the state board of equalization, or a certified copy of any statement filed by said board in the office of the county clerk of the county where such property is situated which lien shall have precedence over any other claim, lien or demand thereafter filed or recorded and which may be enforced in the name of the state of Montana in the same manner as judgment liens are enforced by law."

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Section 2. Section 84-1835, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1835. **Monthly returns and payments.** (a) **Returns:** For the purpose of determining the amount of his liability for the tax herein imposed, each special fuel dealer and each special fuel user shall file with the board, on forms prescribed by said board, a monthly tax return. Such return shall contain a declaration by the person making the same, to the effect that the statements contained are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification. The return shall show such information as the board may reasonably require for the proper administration and enforcement of this act; provided, however, that if a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle, and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the monthly return to the board need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made. The special fuel dealer or special fuel user shall file the return on or before the twenty-fifth (25th) day of the next succeeding calendar month following the monthly period to which it relates; provided, however, that for good cause the board may grant a taxpayer a reasonable extension of time for filing, but not to exceed thirty (30) days. Monthly returns and payments—returns.

Any claim, statement, remittance, or other document which is transmitted to this state through the United States mail, shall be deemed filed and received by this state on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. Any claim, statement, remittance, or other document which is mailed but not received by this state or where received with a cancellation mark that is illegible, erroneous, or omitted, shall be deemed filed and received on the date mailed if the sender establishes by competent evidence that the claim, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing. In cases of such nonreceipt of a claim, statement, remittance, or other document, the sender must file with the state a duplicate within thirty (30) days Filing date—determination.

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after written notification is given to the sender by the state of its nonreceipt of such claim, statement, remittance, or other document.

Evidence of mailing.

If any claim, statement, remittance, or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United State Post Office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed to the addressee and the date of registration, certification or certificate shall be deemed the postmarked date.

If the final filing date falls on a Saturday, Sunday or legal holiday, the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date or as provided in this chapter.

Waiver of filing tax return.

Upon annual application the board may waive the filing of a monthly tax return of any special fuel user who establishes to the reasonable satisfaction of the board that no tax, interest or penalties are accrued under the provisions of this act.

Computation of tax.

(b) **Computation:** The tax imposed by this act shall be computed as follows: (1) with respect to special fuel used by the seller thereof as a special fuel dealer, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel delivered or placed by him into the supply tank or tanks of a motor vehicle, (2) with respect to special fuel as to which the tax has not been paid to a special fuel dealer in this state and which has been consumed by the purchaser thereof as a special fuel user, by multiplying the tax rate per gallon provided in this act by the number of gallons of special fuel consumed by him in the propulsion of motor vehicles on the highways of this state.

Payments.

(c) **Payments:** The monthly tax return shall be accompanied by remittance covering the tax due hereunder on account of the use as defined in 84-1831 (f) of special fuels during the preceding month.

Refusal or failure to file return or pay tax when due.

(d) **Refusal or failure to file return or pay tax when due:** In case of any special fuel dealer or special fuel user who refuses or fails to file a return required by this

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act within the time prescribed by subsection (a) of this section, there is hereby imposed a penalty of one hundred dollars ($100.00) or a sum equal to twenty-five percent (25%) of the tax due, whichever is greater, together with interest at the rate of one percent (1%) on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues; provided, however, that if any such special fuel dealer or special fuel user shall establish to the satisfaction of the board that his failure to file a return within the time prescribed was due to reasonable cause, the board shall waive the penalty provided by this subsection.

Failure to pay tax.

(e) **Failure to pay tax**: Where a special fuel dealer or a special fuel user files a return, but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate of one percent (1%) per month or fraction thereof, from the date such tax was due to the date of payment in full thereof.

Deficiency.

(f) **Deficiency**: If it be determined by the board that the tax reported by any special fuel dealer or special fuel user is deficient, it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency interest at the rate of one percent (1%) per month or fraction thereof from the date the return was due.

Determination if no return made.

(g) **Determination if no return made**: If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the board shall, on the basis of information available, to it, determine the tax liability of the special fuel dealer or special fuel user for the period during which no return was filed, and to the tax as thus determined, the board shall add the penalty and interest provided in subsection (d) above.

An assessment made by the board pursuant to this subsection or to subsection (f) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

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Fradulent return.

(h) **Fraudulent return:** If any special fuel dealer or special fuel user shall file a false or fraudulent return with intent to evade the tax imposed by this act, there shall be added to the amount of deficiency determined by the board a penalty equal to twenty-five (25%) of the deficiency together with interest at one percent (1%) per month, or fraction thereof, on such deficiency from the date such tax was due to the date of payment, in addition to all other penalties prescribed by law.

Limitation.

(i) **Limitation:** Except in the case of a fraudulent return or of neglect, or refusal to make a return, every deficiency shall be assessed under subsection (f) above within five (5) years after the twenty-fifth day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within five (5) years after the return is filed, whichever period expires the later."

Approved: February 21, 1969.

CHAPTER 62

An Act Amending Section 15-2354 by Adding a Subparagraph (e) Authorizing Jurisdiction of Courts to Liquidate the Assets and Affairs of Corporations Which were Dissolved Under Corporate Laws Effective Prior to the Effective Date of Chapter 198, Laws of Montana 1967, And Amending Section 15-2359 Authorizing the Court in Such Proceedings to Make an Order and Decree of Final Distribution and Liquidation, Discharge Receivers and Discharge all Surviving Directors of Such Dissolved Corporations from their Duties and Responibilities as Trustees for the Creditors and/or Members of such Corporations and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 15-2354, R.C.M. 1947, is amended to read as follows:

Jurisdiction of court to liquidate assets and affairs of corporation.

"15-2354. **Jurisdiction of court to liquidate assets and affairs of corporation.** Courts of equity shall have full power to liquidate the assets and affairs of a corporation:

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(a) In an action by a member or director when it is made to appear:

(1) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or

(2) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(3) That the members entitled to vote in the election of directors are deadlocked in voting power and have failed for at least two (2) years to elect successors to directors whose terms have expired or would have expired upon the election of their successors;

(4) That the corporate assets are being misapplied or wasted; or

(5) That the corporation is unable to carry out its purposes.

(b) In an action by a creditor:

(1) When the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or

(2) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation to have its dissolution continued under the supervision of the court.

(d) When an action has been filed by the attorney general to dissolve a corporation and it is established that liquidation of its affairs should precede the entry of a decree of dissolution.

(e) Upon filing a verified petition and/or application by a member, director or creditor of any corporation which was dissolved under any corporation laws, which were in effect prior to the effective date of Chapter 198, Laws of Montana 1967, if such dissolved corporation has, or may hereafter be found to have, any property, property rights

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or other assets, including money, which have not been distributed to creditors and/or members legally entitled to the same.

Proceedings under this section shall be brought in the district court in which the registered office of the principal office of the corporation is situated.

It shall not be necessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally."

Amending clause.

Section 2. Section 15-2359 R.C.M. 1947, is amended to read as follows:

Decree of involuntary dissolution.

"15-2359. **Decree of involuntary dissolution.** In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this act, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and asets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, weherupon the existence of the corporation shall cease, *or in the event the proceedings is under subdivision (e) of Section 15-2354, R.C.M. 1947, the court shall make an order and decree of final distribution and liquidation, discharging the receiver appointed and also discharging all surviving directors of such dissolved corporation from their duties and responsibilities as trustees for the creditors and/or members of such corporation.*"

Effective immediately.

Section 3. This law shall be in full force and effective from and after its passage and approval.

Approved: February 21, 1969.

CHAPTER 63

An Act to Amend Section 94-3527, R.C.M. 1947, to Permit United States Immigration and Naturalization Service Officers to Carry Concealed Weapons Without a Permit.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. 94-3527, R.C.M. 1947, of the State of Montana is amended to read as follows: Amending clause.

"94-3527. **Same — who excepted from act.** The preceding sections shall not apply to: Excepted from act prohibiting the carrying of concealed weapons.

1. A sheriff or his deputy;

2. A marshal or his deputy;

3. A constable or his deputy;

4. A police officer or policeman;

5. A United States marshal or his deputy;

6. A person in the secret service of the United States;

7. A game warden or his deputy;

8. A U.S. forest reserve official or his deputy;

9. A person in actual service as a national guardsman;

10. A revenue officer or his deputy;

11. A person summoned to the aid of either of the foregoing named persons;

12. A civil officer or his deputy engaged in the discharge of official business;

13. A person authorized by a judge of a district court of this state to carry a weapon;

14. The carrying of arms on one's own premises or at his home or place of business;

15. Any peace officer of the state of Montana;

16. United States Immigration and Naturalization Service Officers."

Approved: February 21, 1969.

CHAPTER 64

An Act Amending the Probate Law to Provide a Longer Term for Sales of Estate Real Property; Amending Section 91-3009, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Seciton 91-3009, R.C.M. 1947 is amended to read as follows:

Contents of order of sale—conditions of sale—public or private.

"91-3009. **Contents of order of sale—conditions of sale —public or private.** The order of sale must describe the lands to be sold and the terms of sale which may be for cash, or for part cash and the balance on a credit not exceeding five (5) years *where the sales price is five thousand dollars ($5,000) or less,* payable in gross or in installments, with interest, as the court or judge may direct. *For sales where the sales price exceeds five thousand dollars ($5,000), deferred payments may be extended not to exceed twenty (20) years.* The land may be sold in one parcel or in subdivisions, as the executor or administrator shall judge most beneficial to the estate, unless the court or judge otherwise specially directs. If it appears that any part of such real estate has been devised, and not charged in such devise with the payment of debts or legacies, the court or judge must order the remainder to be sold before that so devised. Every such sale must be ordered to be made at public auction, unless, in the opinion of the court or judge, it would benefit the estate to sell the whole or some part of such real estate at private sale. The court or judge may, if the same is asked for in the petition, order or direct such real estate, or any part thereof, to be sold at either public or private sale, if the executor or administrator shall deem it to be most beneficial for the estate. If the executor or administrator neglects or refuses to make a sale under the order, and as directed therein, he may be compelled to sell, by order of the court or judge, made on motion, after due notice by any party interested."

Approved: February 21, 1969.

CHAPTER 65

An Act to Submit to the Electors of the State of Montana the Question Whether the Legislaive Assembly Shall Call a Consitutional Convention.

Be it enacted by the Legislative Assembly of the State of Montana:

Submission to electors of the question whether legislative assembly shall call a constitutional convention.

Section 1. At the general election to be held in November 1970 there shall be submitted to the electors of the state of Montana the question whether the legislaive assembly at the 1971 session, and in accordance with

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Article XIX, section 8 of the Montana constitution, shall call a convention to revise, alter, or amend the constitution of Montana.

Form of ballot.

Section 2. When the question is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and section 1 of this act, an explanatory statement by the attorney general like that for constitutional amendments submitted to the electors, and the following words:

"☐ For calling a constitutional convention.

☐ Against calling a constitutional convention."

Approved: February 21, 1969.

CHAPTER 66

An Act to Submit to the Electors of Montana an Amendment to Section 9, Article XIX of the Constitution of Montana Which Would Permit the Legislative Assembly to Submit at the 1972, 1974 and 1976 General Elections, in Addition to the Three Amendments Otherwise Authorized, Amendments Providing for the Reorganization of the Executive Department of Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 9, Article XIX of the constitution of the state of Montana is amended to read as follows:

Amendments to constitution—reorganization of executive department of government.

"Section 9. Amendments to this constituion may be proposed in either house of the legislative assembly, and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall be-

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come part of the constitution. Should more amendments than one (1) be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately. Not more than three amendments to this constitution shall be submitted at the same election, *except that there may be submitted at each of the general elections held in the years 1972, 1974 and 1976, in addition to the three amendments otherwise authorized by this section, an amendment or amendments providing for the reorganization of the executive department of government which may include the revision or repeal of sections of this constitution relating to any boards, offices, and departments other than legislative and judicial offices. The reorganization of the executive department is a single subject, and an additional amendment relating to that subject authorized by this section may be submitted to the qualified electors of the state in the form of a title clearly expressing its subject.*"

Form of ballot.

Section 2. When this amendment is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and section 1 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved: February 21, 1969.

CHAPTER 67

An Act to Amend Section 92-706, R.C.M. 1947, by Increasing Hospital Services and Medical Services Under the Workmen's Compensation Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-706, R.C.M. 1947, is amended to read as follows:

Medical and hospital services and other approved treatment to be furnished.

"92-706. (2917) **Medical and hospital services and such other treatment as approved by the board to be furnished.** In addition to the compensation provided by this act and as an additional benefit separate and apart from compensation, the following shall be furnished:

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During the first thirty-six (36) months after the happening of the injury, the employer or insurer or the board, as the case may be, shall furnish reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment approved by the board, not exceeding in amount the sum of *five thousand dollars ($5,000.00)* provided however, that in cases of total disability where apportionment of such sum does not meet all hospitalization expenses, the board may allow an additional amount for additional hospital and medical expenses as in special cases it may deem proper. The employer or insurer or the board shall not be required to furnish such services if the employee refuses to allow them to be furnished or if the employee is under hospital contract as provided in section 92-610.

Hospital contracts—inadequate medical facilities.

When such employee is under a hospital contract as above and when hospital and medical facilities or both are inadequate to the needs of an injured employee in a particular case such injured employee may, any time, be placed where adequate hospital facilities are obtainable, and the cost thereof in whole or in part shall be a legal charge against the one so contracting to furnish hospital facilities, and the amount of such charge and the necessity therefor shall be determined by the board.

Prosthetic appliances.

And be it further provided, that where an injury arising out of and received in the course of employment necessarily results in the loss by amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the industrial accident board may, in its discretion, order that an artificial member be furnished to supply the loss of any such member or members so lost. The board may also order the replacement or repair of any prosthetic appliance damaged in an industrial accident. Such articifial member shall be furnished at the expense of the employer, operating under plan one, or the insurer, operating under plan two, or the industrial accident fund where the employer is operating under plan three. The replacement of an artificial member so furnished shall be required every five (5) years, if necessary, unless the board shall determine a replacement is needed within a shorter period.''

Approved: February 21, 1969.

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CHAPTER 68

An Act to Amend R.C.M. 1947, 91-1401 Providing for the Order of Priority of Persons Entitled to Administer Estates of Persons Dying Intestate and of Persons Dying Testate Without Appointing an Executor who Qualified.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-1401, R.C.M. 1947, is amended to read as follows:

Order of persons entitled to administer—partner not to administer.

"91-1401. **Order of persons entitled to administer—partner not to administer.** Administration of estate of all persons dying intestate *and of all persons dying testate without appointing an executor who qualified for appointment* must be granted to some one or more of the persons hereinafter mentioned *or to persons nominated by them,* and they are respectively entitled to preference thereto in the following order *the relatives of the decedent being entitled to priority only when they are entitled to succeed to the estate or some portion thereof;*

1. The surviving husband or wife.

2. The children.

3. The father or mother.

4. The brothers.

5. The sisters.

6. The grandchildren.

7. The next of kin entitled to share in the distribution of the estate.

8. *A beneficiary under the will of the decedent.*

9. The public administrator.

10. A creditor.

11. Any person legally competent.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of the estate."

Approved: February 21, 1969.

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CHAPTER 69

An Act Amending Section 75-2707, R.C.M. 1947, Relating to Increased Retirement Allowances for Those Members Retired Prior to July 1, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-2707, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-2707. **Benefits.** (1) Superannuation retirement benefit. Benefits—superannuation retirement benefit.

(a) Any member who has completed five *(5)* years of creditable service, the last five *(5)* years of which shall have been in this state, and who has attained the age of sixty *(60)* may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

(b) That from and after the passage and approval of this act, any member in service who has attained the age of seventy *(70)* years, during any school year shall be retired by said retirement board on the first day of September following his or her seventieth birthday, provided, however, that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy *(70)* upon the recommendation of the president of the unit concerned to the board of regents. Provided further that such teachers (1) shall not be given credit toward retirement pay for teaching service rendered after the end of the school year in which the age of seventy *(70)* is attained, (2) shall not contribute to the retirement system after the end of said school year, and (3) shall not have the compensation received after the end of said school year used in computing final average salary. Initial employment of teachers in the Montana university system beyond the age of seventy *(70)* may be made upon the recommendation of the president of the unit concerned to the board of regents but such employees are denied membership in the teacher's retirement system.

Provided, further, that any retired teacher may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth *(1/4)* of his final average compensation without loss of retirement benefits.

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Allowance on superannuation retirement.

(2) **Allowance on superannuation retirement.** Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of:

(a) An annuity which shall be actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) A pension of one-quarter *(1/4)* of his average final compensation provided his creditable service is at least thirty-five *(35)* years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service, and

(c) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

(d) The minimum annual retirement allowance for a member who has completed thirty *(30)* years service and who retired after September 1, 1937, and before June 30, 1949, shall be *fifteen hundred dollars ($1,500)* and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1949, but whose service is less than thirty *(30)* years shall receive a minimum retirement allowance based on the proportionate amount of *fifteen hundred dollars ($1,500)* that his service bears to thirty *(30)* years of service.

(e) The minimum annual retirement allowance for a member who has completed thirty-five *(35)* years of service and who retires after June 30, 1949, shall be *fifteen hundred dollars ($1,500).*

(f) Every member receiving a superannuation allowance on June 30, 1967, shall be entitled to an increase in their original retirement allowance of two per cent (2%) for each year on retirement from July 1, 1937, to June 30, 1967, unless the benefit to those members eligible under paragraph (d) and (e) are larger, then this increase shall not be allowed.

(g) In the event a member retired on a superannuation allowance has not received more than three *(3)* retirement payments prior to death, the beneficiary of the member

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shall receive a refund of the difference between the total paid and the amount of the accumulated contributions.

Disability retirement benefit.

(3) **Disability retirement benefit.** Upon the application of a member in service or of his employer, any member who qualifies by reason of service for a retirement benefit may be retired by the retirement board not less than thirty *(30)* and not more than ninety *(90)* days next following the date of filing such application on a disability retirement allowance, provided that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

If the applicant for disability retirement was prevented because of the disability from making application at the time of the time of the commencement of disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of disability.

Allowance on disability retirement.

(4) **Allowance on disability retirement.** Upon retirement for disability a member shall receive a superannuation allowance if he is eligible for a superannuation allowance; otherwise he shall receive a disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (1/4) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (1/4) of his average final compensation, provided, however, that no such allowance shall exceed ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

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(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death the difference between the amount paid and the total of the accumulated savings account of said member shall be paid to the beneficiary.

Re-examination of beneficiaries retired on account of disability.

(5) **Re-examination of beneficiaries retired on account of disability.** Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three *(3)* year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty *(60)* to undergo a medical examination by the medical board or a physician or physicians designated by the medical board, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty *(60)* refuse to submit to at least one *(1)* medical examination in any year by the medical board, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one *(1)* year, all his rights in and to his pension may be revoked by the retirement board.

Report of medical board—reduction of pension.

(6) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed the amount of his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Restoration to active service.

(7) Should a disabliity beneficiary under age sixty *(60)* be restored to active service at a compensation not

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less than his average final compensation his retirement allowance shall cease; he shall again become a member of the retirement system and contribute thereto. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect and in addition upon his subsequent retirement he shall be credited with all his service as a member, and should he be restored to active service on or after the attainment of the age of fifty-five *(55)* years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new entrant.

Payment of benefits or contributions before retirement.

(8) (a) A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall be paid only the amount contributed by the member to his annuity savings account after first deducting any unpaid annual membership fees of said member.

(b) Should a member die before retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he shall have nominated on a form as the board may require which shall be filed with the board prior to the member's death.

(c) In lieu of benefits provided in (b) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. Said monthly life annuity to be based on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

(d) If the deceased member had qualified by reason of service for a retirement benefit and was actively engaged as a teacher in the state of Montana within one (1) year prior to his death, the sum of fifty dollars ($50) per month shall be paid to each minor child of the deceased member until such child or children reach his or her eighteenth birthday.

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Optional benefits.

(9) **Optional benefits.** With the provision that no optional selection shall be effective in case a beneficiary dies within thirty *(30)* days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provision that:

Option 1.

Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Option 2.

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Option 3.

Option 3. Upon his death, one-half *(1/2)* of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Option 4.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, provided such other benefit of benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board."

Approved: February 24, 1969.

CHAPTER 70

An Act to Amend Section 75-2709, Revised Codes of Montana, 1947, Relating to Employer Contribution to the

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Pension Accumulation Fund, to Employer Contribution to the Expense Fund, to Benefits from Extra Contributions by Members; and Repealing Parts (i) Through (1) of Sub-Section 3 and Part (b) of Sub-Section 5.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-2709, Revised Codes of Montana, 1947, is amended to read as follows:

Method of financing.

"75-2709. **Method of financing.** There are hereby created and established an 'annuity savings fund' and 'annuity reserve fund,' a 'pension accumulation fund,' a 'pension reserve fund' and an 'expense fund,' into which funds all of the assets of the retirement system shall be credited according to the purpose for which they are held as hereinafter prescribed.

Annuity savings fund.

(1) **Annuity savings fund.** The annuity savings fund shall be a fund in which shall be accumulated the contributions from the compensation of members to provide for their annuities. Contributions to and payments from the annuity savings fund shall be made in the following manner:

Payroll deductions.

(a) Each employer shall deduct from the compensation of each member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five per centum (5%) of such member's earnable compensation, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty and rendered thirty-five years of creditable service if such a member elects not to contribute.

Determination of compensation.

(b) In determining the amount earnable by a member in a payroll period, the retirememnt board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth (1/10) of one per centum (1%) of the annual compensation upon the basis of which said deduction is to be made.

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Deductions despite minimum compensation.

(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt in full for his salary or compensation; and payment of salary or compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by this act.

(d) Notwithstanding the preceding provision, no deduction shall be made from any member's salary on account of which the state's contributions on his account are in default.

Redeposit to annuity savings fund.

(e) In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the retirement board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this act, or any part thereof; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purpose of an additional annuity. Such additional amounts so deposited shall become a part of his accumulated contributions, except in the case of disability retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death as provided in this act, shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the *pension accumulation* fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Annuity reserve fund.

(2) **Annuity reserve fund.** The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force from which shall be paid all annuities and all benefits in lieu of annuities, payable as

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provided in this act. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Pension accumulation fund.

(3) **Pension accumulation fund.** The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Employer contribution.

(a) Each and every employer shall pay into the pension accumulation fund an amount equal to *four and one half per centum (4 1/2%)* of the earnable compensation of each member employed during the whole or such part of the preceding payroll period as such member was so employed by such employer. Provided, further, that for each payroll period after July 1, *1979,* the employers' contribution shall be *four per centum (4%).*

Appropriations by school district.

(b) The board of trustees of every school district maintaining an elementary school, or schools, the board of trustees of every school district maintaining a high school, and the board of trustees of every county high school shall, in the respective budgets for such schools, make and provide an appropriation for such payments to the pension accumulation fund.

Payment when levy in excess of 10 mills not required.

(c) When the total amount required for the elementary school budget of any district, including the amount to be paid into the pension accumulation fund will not require a levy against the property in the district in excess of ten (10) mills, no special or additional levy shall be made but the whole amount shall be paid out of the receipts from the levy authorized by section 75-3706.

Payment when levy in excess of 10 mills required.

(d) When the total amount required for the elementary school budget for any district, including the amount to be paid into the pension accumulation fund, will require a levy more than ten (10) mills, a special levy against the taxable property in the district must be made in such number of mills as will raise the total amount for the payment

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to the pension accumulation fund, without being authorized at any election.

County wide tax levy.

(e) The total amount to be paid by each high school within each county to the pension accumulation fund shall be raised by a county-wide tax levy, and the county commissioners, except as hereinafter provided, shall make a county-wide levy of such number of mills as will raise such total amount; provided that the amount budgeted for payment to the pension accumulation fund in any high school budget shall not be deemed or considered as a part of or as included within the maximums for high school budgets as fixed and determined by section 75-4505, and the county-wide high school levy herein provided for shall not be deemed or construed as a part of the county-wide high school levy authorized by section 75-1723, unless the trustees making such budget so desire and the board of county commissioners find that such levy is not required to raise the amount necessary for such budget for all purposes including the payment to the pension accumulation fund.

Appropriations by legislative assembly.

(f) The legislative assembly shall, in its appropriation for the maintenance and operation of the office of the state superintendent of public instruction, the state orphans home, the Montana state training school, the Montana state deaf and blind school, the state vocational school for girls, and the Montana state industrial school, include and provide appropriations in such an amount as will be sufficient to make such payments into such pension accumulation fund as may be required by reason and on account of such state superintendent of public instruction and such employees of such office and institutions as may be members.

(g) The legislative assembly shall, in its appropriations for the maintenance and operation of the university of Montana, and its several departments and schools, include and provide appropriations in such an amount as will be sufficient to make such payments into the pension accumulation fund as may be required reason or on account of such teachers of such university, and its several schools and departments, as may be members, provided that all such appropriations shall be made from the university millage fund or appropriations made by the legislature.

(h) The board of county commissioners of each county shall, in the budget covering appropriations for the maintenance and operation of the office of county superinten-

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dent of schools, include and provide such an amount as will be sufficient to make such payments into such pension accumulation fund as may be required by reason and on account of such county superintendent and such other employees of such office as may be members.

Disposition of interest and dividends.

(i) All interest and dividends earned on the funds of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

Payment of pensions and benefits—fund.

(j) All pensions and benefits in lieu thereof, including pensions payable under section 75-2712, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

(k) All moneys and securities to the credit of the public school teachers' retirement salary fund and the public school teachers' permanent fund on the first day of September, nineteen hundred and thirty-seven shall be paid by the state treasurer into the pension accumulation fund.

Transfer to and from pension accumulation fund.

(l) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

Retirement—transfer of funds.

(m) Upon the retirement of a new entrant, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

Pension reserve fund.

(4) **Pension reserve fund.** The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should

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the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Expense fund.

(5) **Expense fund.** The expense fund shall be the fund to which shall be credited all moneys contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowance and as other benefits provided herein. Contributions shall be made to the expense fund as follows:

Contributions to expense fund.

(a) The retirement board shall determine annually the amount required to defray such expense in the ensuing fiscal year. There shall be deducted from the compensation of each member by the several employers the sum of one dollar for each year, in addition to all other deductions herein provided, which sum shall be transmitted to the retirement board in the same manner as herein provided for the transmission of other member contributions, and such sums so deducted shall become a part of and be charged to, said expense fund, and shall not become a part of the members' accumulated contributions.

(b) The expense not payable by contributions of members *shall be paid from interest and dividends earned on the funds of the retirement system."*

Approved: February 24, 1969.

CHAPTER 71

An Act Permitting Establishment of Refuse Disposal Districts by Boards of County Commissioners; Defining Terms; Establishing Conditions for Creating Refuse Disposal Districts; Providing for Inclusions or Exclusions of Cities and Towns; Allowing for Protest of Creation; Establishing Fee Schedules; Providing for Board of Directors and Their Duties; and Allowing for Changing of Boundaries; and Specifying an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of purpose.

Section 1. **Declaration of purpose.** The improper storage, collection and disposal of refuse is hereby de-

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cared to be a significant hazard to the health, safety and welfare of Montana citizens and can cause the spread of disease, air pollution and water pollution. Refuse can be an excellent habitat for disease vectors such as rats and insects; therefore, it is deemed necessary to provide for the creation of refuse disposal districts to control storage, collection and disposal of refuse.

Definitions.

Section 2. **Definitions.** As used in this act unless the context indicates otherwise:

"Commissioners."

"Commissioners" means the board of county commissioners.

"Family residential unit."

"Family residential unit" means the residence of a single family.

"Refuse."

"Refuse" means all putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, yard clippings, and solid market and solid industrial wastes.

"Refuse disposal district."

"Refuse disposal district" means an area established with definite boundaries for the purpose of collecting and disposing of all refuse created in said district.

Creation of refuse disposal district.

Section 3. Whenever it becomes necessary, the commissioners may create a refuse disposal district for the purpose of collection and/or disposal of refuse.

Cities and towns may be included in the district if approved by the city and town councils.

Resolution of intention—to designate.

Before creating any refuse disposal district, the commissioners shall pass a resolution of intention so to do, which said resolution shall designate: (1) The proposed name of such district,

(2) The necessity for the proposed district,

(3) A general description of the territory or lands of said district giving the boundaries thereof,

(4) The general character of the collection service,

(5) The estimated cost thereof.

Transmittal of resolution of intention to executive head of city or town.

Section 4. Upon passage of such resolution of intention, commissioners shall transmit a copy of the same to the executive head of any incorporated city or town within the proposed district for consideration by such city or town

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council, and if the city or town council shall by resolution concur, in the resolution of the commissioners, a copy of the resolution of concurrence shall be transmitted to the commissioners. If the incorporated city or town council does not concur in the resolution of the commissioners, the commissioners shall have no authority to include said town or city in the district, but may continue to develop the district, but excluding said town or city. However, if the city or town council concurs in the resolution of the commissioners, the commissioners must give notice of the passage of its resolution of intention and of the concurrence therein by the city or town council, which notice must be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published nearest to the place where such refuse disposal district is to be created and shall also cause to be posted within the boundary of such special refuse disposal district a copy of such notice in three (3) public places. Such notice must describe the general characteristic of the collection system with the estimated costs and designate the time when and the place where the commissioners will hear and pass upon all protests that may be made against the maintenance and operation of said district and the said notice is referred to the resolution on file in the office of the county clerk for the description of the boundaries.

Noncurrence by city or town.

Concurrence by city or town.

Protest against proposed service—when—hearings—determination of family residential units.

Section 5. At any time within thirty (30) days after the date of the first publication of the passage of the resolution of intention, any owner of property liable to be assessed for said service may make written protest against the proposed service. Such protest must be in writing and be delivered to the county clerk, who shall endorse thereon the date of the receipt by him. At the next regular meeting of the commissioners, after the expiration of the time within such said protest may be so made, the commissioners shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive, provided, however, if the protest against the proposed service is made by the owners of more than fifty (50) percent of the family residential units; each commercial and industrial service that is to be included in the collection system may be considered as a family residential unit for the purpose of determining percent of protest; in the proposed district, no further proceedings shall be taken by the commissioners.

In determining whether or not sufficient protests have

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been filed in the proposed district to prevent further proceedings therein, property owned by the city, county, and school districts, shall be considered the same as any other property in the district. The commissioners may include commercial and industrial establishments in said district. The commissioners may adjourn said hearings from time to time.

Acquisition of jurisdiction by commissioners.

Section 6. When no protests have been delivered to the county clerk within thirty (30) days after the date of the first publication of the notice of the passing of the resolution of intention, or when a protest shall have been found by said commissioners to be insufficient, or shall have been overruled, immediately thereupon, the commissioners shall be deemed to have acquired jurisdiction to order improvements, but before ordering any of the said proposed improvements, the commissioners shall pass a resolution creating the said refuse disposal district in accordance with the resolution of intention theretofore introduced and passed by the commissioners.

In all resolutions, notices, orders, and determinations subsequent to the resolution of intention and notice of improvement, it shall be sufficient to briefly describe the work of the refuse disposal district and to refer to the resolution of intention for further particulars.

Establishment of fee for service.

Section 7. To defray the cost of maintenance and operation of said refuse disposal district, the commissioners shall establish a fee for service. The commissioners shall assess the entire cost of maintenance and operation of said district on each family residential unit that is receiving this service. Fees for commercial and industrial accounts shall be based on a comparison with a typical residential unit as to volume and type of waste produced. However, in no case shall the fee for disposal service only exceed one half (1/2) the total fee for both collection and disposal services.

Cost of land and equipment.

Section 8. To defray the initial cost of purchasing land and equipment, payments may be spread over a term of not to exceed twenty (20) years. Payments are to be made in equal installments out of the monies received from the fee levy provided for in this act.

Board of directors.

Section 9. Upon creation of any refuse disposal district, the commissioners shall appoint a board of directors for the

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proposed refuse disposal district. The board shall consist of not less than five (5) members, each of whom shall be property owners in the said district. The board shall consist of one (1) county commissioner, one (1) member from each incorporated city or town that is included in the district, one (1) member of the county or city-county board of health. The rest of the board shall consist of interested citizens distributed equally throughout the district. In those counties where fulltime city-county health departments exist, the city-county board of health may be designated as the board of directors for the refuse disposal district.

Power of board of directors.

Section 10. The board of directors for the refuse disposal district shall have power: (1) To develop and administer a program for the collection and/or disposal of refuse within the district.

(2) To employ such suitable and competent assistance and employees as may be necessary and provide for their compensation.

(3) To purchase, rent or execute leasing agreements for such equipment and material as they may determine to be necessary for carrying on an effective refuse collection and/or disposal program.

(4) To cooperate with any corporation, association, individual or group of individuals, including any agency of the federal or state government, in order to carry on an effective program.

(5) To receive gifts, grants, or donations for the purpose of advancing the program.

(6) To enforce all state or local board of health rules and regulations pertaining to the storage, collection and disposal of refuse.

(7) To apply for and receive from the federal government on behalf of said refuse disposal district any monies that may be appropriated by congress for aiding such programs.

(8) To borrow from the federal government any funds available for assistance in planning or financing a refuse disposal district and repay the same with the monies received from the fee levy provided for in this act.

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Change of district boundaries.

Section 11. The governing body of the district may by resolution make such changes in the boundaries of said district as they shall deem reasonable and proper, following the same procedures of notice and hearings outlined under section 6 of this act.

Repealing clause.

Section 12. All acts and parts of acts in conflict herewith are repealed except that section 69-4001 through 69-4010, R.C.M. 1947, shall in no way be affected by this act.

Effective immediately.

Section 13. This act is effective on passage and approval.

Approved: February 24, 1969.

CHAPTER 72

An Act to Amend Section 26-202.2, R.C.M. 1947, to Provide for Such Tagging of Game Animals as the State Fish and Game Commission Shall Prescribe, to Require the Tagging of All Legally Killed Game Animals, and to Require the Date and Month of Kill be Cut Out of Game Tag.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-202.2, R.C.M. 1947, is amended to read as follows:

Special licenses—tagging of carcasses of game animals.

"26-202.2. **Special licenses—tagging of carcasses of game animals.** (1) Special licenses authorized to be issued under the general powers of the fish and game commission may be issued only to persons holding valid big game licenses for the current year, which have been obtained by the *applicant* prior to the time of filing of application for a special license.

(2) Any person who has obtained a moose, mountain sheep, bison, or buffalo license shall not be eligible to apply for another such license for the next succeeding seven (7) years, if such person has killed or taken an animal of the species for which such special license was issued. Any person who has obtained a moose, mountain sheep, bison or buffalo license but did not kill or take an animal of the species for which such special license was issued, shall be eligible to apply for another such license in any succeeding

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year if he returns his unused special license to the fish and game commission before or at the time application is made. It is further provided that any person who has received a special license for elk or mountain goat shall not be eligible to receive a second special license for this species of game animal during any license year. However, in the event the number of applications received is not equal to the number of game species desired to be killed by the commission reapplication may be made by those valid license holders of the current year who may fall within these limitations. It is further provided that any person who has killed or taken a game animal, except a deer during the current license year, shall not be permited to receive a special license under this act to hunt or kill a second game animal of the same species.

(3) Tagging of carcasses of game animals. Every license issued by the fish and game commission authorizing the holder thereof to pursue, shoot, kill, capture, take or possess game animals, whether issued to a resident or a nonresident, shall *provide such* tags, coupons, or markers, *as the commission shall prescribe,* and when any person should take or kill any *game animal* under such license, such person shall immediately thereafter *cut out, from the tag, coupon or other marker, the date the animal was killed or taken and attach the tag, coupon or other marker* to said animal, completely filled out with the name of the license holder, *his* address, and any other information requested on such tag, coupon or other marker, and such tag, coupon or other marker shall be kept attached to said carcass so long as any considerable portion of the carcass remains unconsumed, and when the proper tag, coupon or other marker is attached to said game animal so killed, the same may be possessed, used, stored and transported. Any person who should kill any *game animal* by authority of any license issued for the killing of such game animal, and shall fail or neglect to *cut out day and month of kill or provide such other information as is required* and attach his tag, coupon or other marker so provided with the license issued, to the carcass of said *game animal* or portion thereof, or any person who shall fail to keep said tag, coupon or other marker attached to said *game animal* or portion thereof while the same is possessed by him shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided for by law in section 26-324.''

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Section 2. This act is effective upon its passage and approval. Effective immediately.

Approved: February 24, 1969.

CHAPTER 73

An Act to Validate Records of Court Proceedings Prior to January 1, 1969, Containing Defects, Omissions, Informalities or irregularities in Obtaniing a Judgment or Decree Affecting Real Property, in Which Time for Appeal has Expired; Providing that Duly Certified Copies of Such Judgment or Decree May be Read in Evidence With the Same Effect as Judgments or Decrees Duly and Regularly Obtained, Recorded and Entered.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any judgment or decree of any court of this state affecting real property, provided that no action is now pending to set aside any such judgment or decree, which was, prior to January 1, 1969, copied into the proper book, kept in the office of the clerk of the district court, and certified copy of which judgment or decree was, previous to the date this act takes effect, recorded in the proper book, kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, informality or irregularity in any of the court proceedings in the action in which such judgment or decree was entered and obtained, if time for appeal in the case has expired, and such judgment or decree shall not be deemend invalidated by reason of any such defect, omission, informality or irregularity; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of such judgment or decree, or of the record thereof, may be read in evidence, with like effect as copies of a judgment or decree duly and regularly obtained and recorded and entered. Validation of records of court proceedings prior to January 1, 1969.

Approved: February 24, 1969.

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CHAPTER 74

An Act Validating Certain Instruments Affecting Real Property and Which Were Erroneously Executed or Acknowledged Prior to January 1, 1969; Imparting Notice by Recording Thereof; and Providing that Duly Certified Copies Thereof May be Read in Evidence With Like Effect as Copies of an Instrument Duly Acknowledged and Recorded.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of certain instruments affecting real property erroneously executed or acknowledged prior to January 1, 1969.

Seciton 1. Any instrument affecting real property, provided no action is now pending to set such instrument aside, which was, previous to January 1, 1969, copied into the proper book kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, or informality in the execution of the instrument or in the certificate of acknowledgement thereof, or the absence of any such certificate; and all such instruments heretofore acknowledged by the vice-president and assistant secretary of any corporation, or by either of them, or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation, and recorded, shall be valid and shall have the same force and effect as though acknowledged by the president or secretary; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of the record of any such instrument may be read in evidence, with like effect as copies of an instrument duly acknowledged and recorded.

Approved: February 24, 1969.

CHAPTER 75

An Act Validating Deeds and Conveyances in Sales of Land and Personal Property Made by Trustees, Executors, Administrators and Guardians Prior to January 1, 1969, Curing Defects and Irregularities in Such Sales.

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Be it enacted by the Legislative Assembly of the State of Montana:

Validation of deeds and conveyances in sales of land and personal property made by fiduciaries prior to January 1, 1969.

Section 1. All sales, provided no action is now pending to set aside such deed or conveyance, by trustees, executors, administrators and guardians which previous to January 1, 1969, were made to purchasers for a valuable consideration, which consideration has been paid by such purchasers in good faith, and such sales shall not have been set aside by the district or probate court having jurisdiction thereof, shall be sufficient to sustain a trustee's, executor's, administrator's, or guardain's deed or conveyance to such purchaser, and in case such deed or conveyance shall not have been given, shall entitle such purchaser to such deed or conveyance; and such deed or conveyance, if now executed or when executed, shall be sufficient to convey to such purchaser all the title that such beneficiary, decedent or ward had in said real or personal property; and all irregularities in obtaining the order of the court for such sale, and all irregularities or defects in making or conducting such sale by said trustee, executor, administrator or guardian, shall be disregarded, and such sale shall not be invalidated by reason of any such defect or irregularity.

Approved: February 24, 1969.

CHAPTER 76

An Act Relating to Validation of Judicial Sales Prior to January 1, 1969, of Real Property and Curing Defects or Irregularities in the Issuance of Execution, Manner of Making or Conducting the Sale, or in the Recitals or References in Sheriffs' Deeds.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of judicial sales prior to January 1, 1969.

Section 1. All judicial sales of real property prior to January 1, 1969, provided no action is now pending to set such sale aside, where made in this state on proceedings to satisfy valid judgments or decrees of any court and the moneys bidden thereon paid to the officer making such sale, shall be valid and sufficient in law to sustain a sheriff's deed based on such sale, and when no such deed has been executed, shall entitle such purchaser to such deed; and such deed, if now or when executed, shall be sufficient to convey all the title of judgment debtor at the time of such

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sale in the premises so sold to the purchaser at said sale, and all defects or irregularities in the issuance of execution, or the manner of making or conducting the sale, or in the recitals or references in such deed, shall be disregarded and such sale shall not be invalidated by reason of any such defect or irregularity.

Approved: February 24, 1969.

CHAPTER 77

An Act Validating Deeds and Conveyances Made Prior to January 1, 1969, Which are Defective in Execution or Acknowledgment, Providing that Such Instruments Shall be Conclusive Evidence of Title Against the Grantors.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of deeds and conveyances made prior to January 1, 1969.

Section 1. All deeds to real property executed prior to January 1, 1969, in this state, or any state or territory of the United States, provided no action is now pending to set aside any such deed, which shall have been signed by the grantors in due form, shall be sufficient in law to convey the legal title to the premises therein described from the grantors to the grantees, without any other execution or acknowledgment or witnesses thereto whatever ;and such deeds so executed shall be received in evidence in all courts in this state, and be conclusive evidence of the title to the lands therein described against the grantors, their heirs and assigns.

Approved: February 24, 1969.

CHAPTER 78

An Act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to be Made By Any County of Any Property in Which Such County Had or Claimed Any Right, Title or Interest, and All Instruments of Transfer or Conveyance Heretofore Made or Executed By Any County, and to Declare that All Such Sales, Dispositions and Instruments have Vested in the Grantee or Purchaser, as of the Date Thereof, All Right,

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Title and Interest of the County in and to the Property Described or Covered.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of sales or dispositions made by county of county property.

Section 1. All sales or dispositions heretofore made or attempted to be made by any county of any property in which such county had or claimed any right, title or interest are hereby validated and confirmed, and all instruments of transfer or conveyance heretofore made or executed by any county are hereby validated and confirmed, and all such sales, dispositions and instruments are hereby declared to have vested in the grantee or purchaser, as of the date thereof, all right, title, estate and interest of such county in and to the property described or covered.

Approved: February 24, 1969.

CHAPTER 79

An Act to Define Montana and Other Farm Products and to Provide for the Grading and Labeling of These Products By Amending Sections 3-1401 Through 3-1407, Inclusive, and Sections 3-1409 and 3-1410.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 3-1401, R.C.M. 1947, is amended to read as follows:

Standard grades for Montana farm products.

"3-1401. **Standard grades for Montana farm products.** The standard grades for Montana farm products *and other farm products* shall be limited to the United States grades covering the same products and shall conform in all respects and be identical with the latest standards established by the United States secretary of agriculture for the various commodities, and thus conforming shall be accepted as the legal standards for the state of Montana."

Amending clause.

Section 2. Section 3-1402, R.C.M. 1947, is amended to read as follows:

Definitions.

"3-1402. **Definitions.** The following terms, whenever used in this act, or in rules and regulations later promulgated by the commissioner of agriculture, shall have the meaning as indicated:

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"Commissioner." (a) 'Commissioner' shall mean the commissioner of agriculture of the Montana department of agriculture.

"Montana farm products." *(b) The term 'Montana farm products' shall mean all products of the farm grown commercially in Montana intended for table use such as potatoes, cherries, and dry beans. The term 'Montana farm products' shall not be limited to those farm products grown in Montana but shall include like products grown outside this state.*

"Other farm products." *(c) The term 'other farm products' shall mean all farm products which are not normally grown commercially in Montana such as grapefruits and oranges; but in either subsection (b) or (c) these terms shall not include livestock and its by-products; poultry and its products; apiary products; dairy products; grain and apples.*

"Container" or "package." *(d) 'Container' or 'package' shall mean cloth or fibre sacks, barrel, box, crate, carton, hamper or baskets, such as are customarily used for the shipment of Montana farm products and other farm products.*

"Person." *(e) 'Person' as used herein shall mean any grower, dealer, shipper, society, association, organization, corporation or their agents or representatives.''*

Amending clause. Section 3. Section 3-1403, R.C.M. 1947, is amended to read as follows:

Commissioner to establish standard grades—notice required. "3-1403. **Commissioner to establish standard grades—notice required.** (a) The commissioner of agriculture shall at once establish in the manner provided by this act, United States standard grades on potatoes, *dry* beans, *cherries* and shall thereafter, as soon as any *Montana farm product or other farm* product shall have reached a volume rendering it of market importance, establish United States grades on same.

(b) The commissioner of agriculture shall establish grades *and designate Montana farm products and other farm products* by proclamation, giving thirty (30) days' notice of such action, and shall publish such proclamation two (2) times in at least three(3) papers of general circulation within the state.''

Amending clause. Section 4. Section 3-1404, R.C.M. 1947, is amended to read as follows:

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"3-1404. **Grading and branding of products required—labeling of culls.** (a) It shall be unlawful for any person, firm, assocation, organization, corporation or their agents or representatives or assistant of any person, firm, association, organization or corporation to pack for sale, expose for sale, or sell, transport, deliver or consign, or have in possession for sale, transport, delivery or consignment in interstate or intrastate commerce, *(1) Montana farm products and other farm products* prepared for market which are not graded and branded to meet the requirement of the grade declared. The grade declared shall conform to the provisions of this act.

Grading and branding of products required—labeling of culls.

(2) Other farm products which includes products arriving or found in Montana in containers not graded and branded must meet the requirements of U. S. No. 1 grade or better. Those products which do not grade U. S. No. 1 or better must be labeled or tagged with proper grade according to Montana inspection.

(b) Provided that *Montana farm products and other* farm products not conforming to established grades may be sold if labeled, tagged or branded in the same manner as graded products, except that in place of specifying the grade, the word 'culls' or 'unclassified' shall be used.

(c) Provided that all products branded 'unclassified' must contain at least fifty per cent (50%) of products which would grade United States No. 2, or better.

(d) Provided further than *Montana farm products and other* farm products for seed purposes may be sold when graded under rules approved by the commissioner of agriculture and plainly labeled, tagged or branded 'For Seed Purposes'.

(e) Provided further that U.S. commerial grade shall be a standard grade in the state of Montana.

(f) Provided further that oranges labeled 'choice' shall meet the requirements of the U. S. No. 2 grade or better for oranges.''

Section 5. Section 3-1405, R.C.M. 1947, is amended to read as follows:

Amending clause.

"3-1405. **Unlawful to sell or transport products unless labeled, tagged or branded—use of tags.** (a) It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant

Unlawful to sell or transport products unless labeled, tagged or branded—use of tags.

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to any person, firm, association, organization or corporation, to expose for sale, or sell, transport, deliver or consign, or have in possession *Montana farm products and other* from products prepared for market unless each container has been legibly and conspiciously tagged, branded, labeled or stenciled before being moved from the premises of the person or persons responsible for the grading and packing, the name of the grade, *when applicable* together with the true net contents expressed in weight.

(b) When tags are used, United States No. 1 grade shall be declared on a white tag, and United States No. 2 grade shall be declared on a red tag. Bulk shipments shall be accompanied by two (2) cards not less than four by six inches (4'' x 6'') in size, placed on the inside of the car near each door. Likewise cards in size herein described shall be prominently placed on all bulk shipments made by truck or other conveyance. Upon each card shall appear the name and address of the consignor, the name of the grade, *if applicable,* the name of the loading station, the date of loading and the name and address of the consignee, if known, It shall be conclusive evidence that the farm products are deemed for sale when the containers are packed for delivery or transit, or when same are exposed for sale, or when same are in process of delivery or transit, or located at a depot, station, boat dock, or any place where farm products, or other products are held for storage, or for immediate or future sale or transit.''

Amending clause.

Section 6. Section 3-1406, R.C.M. 1947, is amended to read as follows:

Inspections of condition of products in storage or transit.

"3-1406. **Inspection of condition of products in storage or transit.** *Montana farm products and other* farm products held in storage or in transit which at the time of inspection show deterioration or decay, but otherwise up to the grade, shall be inspected as to condition and not as to grade.''

Amending clause.

Section 7. Section 3-1407, R.C.M. 1947, is amended to read as follows:

Enforcement of act.

"3-1407. **Enforcement of act.** The commissioner of agriculture is hereby charged with the enforcement of this act and is given power unto himself and to his duly appointed representative to enter into and upon the premises

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where *Montana farm products and other* farm products are graded or packed or stored, to inspect the same as to grade, pack and condition."

Section 8. Section 3-1409, R.C.M. 1947, is amended to read as follows: Amending clause.

"3-1409. **Intent and purpose of act.** The intent and purpose of this act is to regulate the sale of *Montana farm products and other* farm products for table use intended for interstate or intrastate commerce when such is made by the grower, dealer or distributor, or any other person either by wholesale or retail or in any other manner; provided, however, that the provisions of this act shall not apply to the grower in the sale of the *Montana* farm products *and other farm products* grown by himself or to small retail packages." Intent and purpose of act.

Section 9. Section 3-1410, R.C.M. 1947, is amended to read as follows: Amending clause.

"3-1410. **Violation of provisions—penalty.** Whoever violates this act by not grading *Montana farm products and other* farm products as herein required, or by not tagging or branding containers as herein required, or by removing or altering any tag or brands placed upon or attached to any containers as in this act required, unless ordered to do so by the commissioner of agriculture, or his duly appointed representative or *representatives,* shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars ($10.00), not more than one hundred dollars ($100.00), or by imprisonment in the county jail not less than thirty (30) days nor more than three (3) months, or by both such fine and imprisonment in accordance with the discretion of the court." Violation of provisions—penalty.

Approved: February 24, 1969.

CHAPTER 80

An Act Providing for a Store License, A Certified Pharmacy License and Providing Fees Therefor and for Suspension and Revocation of License. Amending Section 66-1508, R.C.M. 1947, Relating to Store License, Certi-

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fied Pharmacy License and Fees Therefor and for Suspension and Revocation of License.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-1508, R.C.M. 1947, is hereby amended to read as follows:

Store license—certified pharmacy license—suspension or revocation.

"66-1508. **Store license—certified pharmacy license—suspension or revocation.** (a) The state board of pharmacy shall upon application upon such forms as it may prescribe and upon the payment of an annual fee of five dollars ($5.00), license stores other than a pharmacy wherein may be sold ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer, qualified under the laws of the state wherein such manufacturer resides. The name and address of such manufacturer shall appear conspicuously on each package sold by such licensee. It shall be unlawful for any such store to sell, deliver or give away such household medicinal drugs, without first having secured such license and thereafter keeping the same in force by proper renewal, provided, also, that nothing herein shall be construed to prevent any vendor from selling any patent or proprietary mediciine in the original package when plainly labeled, nor such nonmedical articles as are usually sold by such vendors.

(b) The state board of pharmacy shall require and provide for the annual registration and licensing of every pharmacy now or hereafter doing business within this state within the meaning of the act. Upon presentation of evidence satisfactory to the board and upon application upon such form as the board may prescribe and upon the payment of an annual fee of *twenty dollars ($20),* the board shall license any pharmacy as a 'CERTIFIED PHARMACY,' provided, however, that such license shall be granted only to such pharmacies as are operated by registered pharmacists or assistant registered pharmacists qualified as herein prescribed. Such license must be exposed in a conspicuous place in the pharmacy for which it is issued, and shall expire on the thirtieth day of June following the date of issue. It shall be unlawful for any person to conduct such pharmacy, to use the word pharmacy to identify his business or to use the word pharmacy in any advertising unless such license has been duly issued and is in full force and effect.

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(c) The board may suspend, revoke or refuse to renew any store or pharmacy license obtained by false representation, or fraud of any character, or when the pharmacy for which the license shall have been issued is kept open for the transaction of business without a pharmicist in charge thereof, or when the person to whom the license shall have been granted has been convicted for violation of any of the provisions of the act or for a felony, or convicted for any violation of the Federal Food, Drug and Cosmetic Act of June 25, 1938, (52 United States Statutes at Large, 1040 through 1059; Title 21, United States Code, sections 301-392 as from time to time revised, amended, and supplemented), or, if a natural person, whose pharmacist or assistant pharmacist license has been revoked, or when the store or pharmacy is conducted in violation of the provisions of this act. Before any license can be revoked the holder thereof shall be entitled to a hearing by the board after reasonable notice, and judicial review of the action of the board.''

Approved: February 24, 1969.

CHAPTER 81

An Act Providing for the Examination of Applicants for Registration and Providing for Fees and Certificates; Amending Section 66-1506, R.C.M. 1947, Relating to Examinations of Applicants for Registration and for Fees and Certificates.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-1506, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"66-1506. **Examination of applicants for registration—fees—certificates.** (a) The board shall meet at least once a year to examine applicants for registration as pharmacists and assistant pharmacists and to transact its other business, giving reasonable notice of all examinations by mail, to all known applicants therefor. The sercetary shall record the names of all persons examined by the board together with the grounds upon which the right of each to examination was claimed and also the names of all persons registered by examination or otherwise. The fee for any Examination of applicants for registration—fees—certificates.

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examination shall be fifteen dollars ($15) which fee may, in the discretion of the board, be returned to applicants not taking the examination.

(b) Upon again making payment of such fee any applicant who fails may be entitled to take the next succeeding examination free of charge.

(c) Fees for registration by reciprocity shall be *fifty dollars ($50).*

Qualifications for examination To be entitled to examination by the board as a pharmacist, the applicant shall be a citizen of the United States, of good moral character, at least twenty-one *(21)* years of age, and shall be a graduate of the school of pharmacy of the state university of Montana or of a college or school of pharmacy recognized and approved by, or a member, of the American Association of Colleges of Pharmacy, but such applicant shall not receive a license until he has at least one *(1)* year of practical experience in a pharmacy which has been approved by the board of pharmacy. During this year, provided applicant has passed such examination, he shall be licensed as an assistant pharmacist only.

Reciprocity.

Reciprocity. The board may, in its discretion, grant registration without examination, to any pharmacist licensed by the board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state, provided the requirements for registration in such other state are, in the opinion of the board, equivalent to the requirements herein provided. Every person licensed and registered under this act shall receive from the state board of pharmacy an appropriate certificate attesting the fact as it may be which certificate shall be conspicuously displayed at all times in his place of business. If the holder be entitled to manage or conduct a pharmacy in the state for himself or another, the fact shall be set forth in the certificate.

Pharmacists or assistants not required to be examined or to register anew under this act. Persons, who, at the time of the enactment of this law, hold certificates of registration as pharmacists, or assistant pharmacists, granted by the state board of pharmacy of this state, shall not be required to submit to examinations or to register anew under this law, but all such persons shall

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apply for and secure annual renewals of their present registration as provided in this act, and in all other respects be amenable to and governed by the provisions of this act and the rules and regulations of the board from time to time promulgated under this act."

Approved: February 24, 1969.

CHAPTER 82

An Act Providing for the Salaries and Expenses of the Board of Pharmacy and the Salary and Expenses of the Secretary of the Board; Amending Section 66-1505, R.C.M. 1947, Relating to the Salaries and Expenses of Officers of the Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-1505, R.C.M. 1947, is hereby amended to read as follows: **Amending clause.**

"66-1505. **Salaries and expenses of officers of board.** Each member of the board shall receive *fifteen dollars ($15)* a day for his actual services as such, and his necessary expenses in attending meetings. The secretary shall receive a salary to be fixed by the board, and all expenses necessarily incurred by him in the performance of his duties." **Salaries and expenses of officers of board.**

Approved: February 24, 1969.

CHAPTER 83

An Act to Amend Section 32-1127 to Provide Issuance of Oversize Permits to Dealers of Implements of Husbandry Transferable from Unit to Unit and Increasing Special Permit Fees from Three Dollars ($3) to Six Dollars ($6).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-1127 is amended to read as follows: **Amending clause.**

"32-1127. **Permits for excess size and weight.** The state highway commission, and local authorities in their **Permits for excess size and weight.**

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respective jurisdiction, may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing, authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified in this act upon any highway under the jurisdiction of and for the mantenance of which the body granting the permit is responsible; provided, however, that only the state highway commission shall have the discretion to issue permits for movement of vehicles carrying built-up or reducible loads in excess of nine (9) feet in width or exceeding the length, height, or weight specified in this act said permit shall be issued in the public interest; provided, however, that any carrier receiving this permit must have public liability and property damage insurance for the protection of the traveling public as a whole. No permit shall be issued for a period of *time greater than the license provided in Title 53 or Title 33 R.C.M. 1947, as amended, including grace periods allowed by said sections. Vehicles licensed in other jurisdictions may, at the discretion of the Montana state highway commission, purchase permits to expire with their registration, provided that any license required by the state of Montana shall govern the issuance of a special permit. The Montana state highway commission may issue oversize permits to dealers in implements of husbandry and self-propelled machinery which may be transferred from unit to unit by the dealer for the fees set forth in paragraph (b). Such permits issued to dealers in implements of husbandry and self-propelled machinery shall expire on December 31 of each year with no grace period. For the purposes of this section, a dealer in implements of husbandry or self-propelled machinery shall be a resident of the state of Montana. A post office box number shall not be a permanent address under this section.*

Specific description of powered vehicle.

The applicant for any special permit shall specifically describe the powered vehicle or towing vehicle and generally describe the type of vehicle or load to be operated or moved and the particular state highways over which the vehicle or load is to be moved and whether such permit is required for a single trip or for continuous operation. All fees collected under this act shall be forwarded to the state treasurer for deposit in the state highway general fund.

Special permits—discretion of issuer—conditions.

(a) **Special permits—Discretion of Issuer—Conditions.** The state highway commission or local authority is author-

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ized to issue or withhold such special permit at its discretion, or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicle described may be operated on the public highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles when necessary to assure against damage to the road foundation, surfaces or structures or safety of traffic and may require such undertaking or other security as may be deemed necessary to compensate for injury to any roadway or road structure.

Special permits—fees.

(b) **Special Permits—Fees.** The following fees, in addition to the regular license and gross vehicle weight fees, shall be paid for all movements under special permits on the public highways under the jurisdiction of the state highway commission:

Six dollars ($6) for each permit issued in excess of the size and weight specified in this act; provided, however, that term or blanket permits shall not be issued for overwidth loads in excess of fifteen (15) feet, overlength loads in excess of seventy (70) feet, and overheight loads in excess of a limit determined by the state highway commission. Loads in excess of these dimensions will be limited to trip permits.

A fee of six dollars ($6) shall be paid for each overweight permit issued, provided no permit shall be issued for a period of time greater than the license provided in Title 53 or Title 32 R.C.M. 1947, as amended, including grace periods allowed by said sections. Vehicles licensed in other jurisdictions may, at the discretion of the Montana state highway commission, purchase permits to expire with their registration, provided that any license required by the state of Montana shall govern the issuance of a special permit. In addition to the permit fee, there shall be charged for single trip permits: five dollars ($5.00) for distances to and including one hundred (100) miles; fifteen dollars ($15.00) for distances from one hundred one (101) to one hundred ninety-nine (199) miles; and twenty-five dollars ($25.00) for distances over two hundred (200) miles traveled, for such excess load over the gross allowable load specified in this section or the sum of the excess axle loads, which ever is greater.

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Special permits—misrepresentations and violations—penalty—display of permit.

(c) **Special Permits — Misrepresentations and Violations—Penalty—Display of Permit.** Any person who knowingly and willfully misrepresents the size or weight of any load in obtaining a special permit or does not follow the requirements and conditions of the special permit or who operates any vehicle, the gross weight of which is in excess of the maximum for which such vehicle may be eligible for license, without first obtaining a special permit, is guilty of a misdemeanor.

Every special permit issued hereunder shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any peace officer, officer of the Montana highway patrol, or employees of the state highway commission.

A peace officer, officer of the Montana highway patrol, or employees of the state highway commission who shall find any person operating a vehicle in violation of the conditions of a special permit issued hereunder may confiscate such permit and forward the same to the state highway commission which may return it to the permittee or revoke, cancel, or suspend it without refund. The state highway commission shall keep a record of all action taken upon permits so confiscated and if a permit shall be returned to the permittee, the action taken by the commission shall be endorsed thereon. Any permittee whose permit is suspended or revoked may, upon request, receive a hearing before the commission or person designated by the commission. The commission, after such hearing, may reinstate any permit or revise its previous action."

Approved: February 24, 1969.

CHAPTER 84

An Act Amending Section 26-202.1, R.C.M. 1947, to Permit a Veteran Who Is a Patient at Any Hospital Operated by the Veterans Administration to Fish in Montana Without a License Whether or Not the Veteran Is a Resident of the State and Relating to Fishing Regulations for Senior Citizens and Residents of State Institutions.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-202.1, R.C.M. 1947, is amended to read as follows: Amending clause.

"26-202.1. **Licenses—fees—classifications of licenses—fees and powers under licenses. (1) Class A license—Resident Fishing License.** Any resident as defined by section 26-202.3, upon payment of a fee of four dollars ($4) shall receive a Class A license which shall entitle the holder thereof to fish with hook and line or rod as authorized by regulations of the commission. Class A license—resident fishing license.

(2) **Class A-1 license—Resident Game Bird License.** Except as herein provided, any resident as defined by section 26-202.3, who is twelve (12) years of age or older, may, upon payment of a fee of two dollars ($2) receive a Class A-1 license, which will entitle the holder to pursue, hunt, shoot and kill game birds and possess the dead bodies of game birds which are so authorized by regulations of the commission. Class A-1 license—resident game bird license.

(a) No hunting licenses shall be issued to any resident person under the age of eighteen (18) years unless he presents to the person authorized to issue such license a certificate of competency as provided by this section.

The department of fish and game shall provide for a course of instruction in the safe handling of firearms and for the purpose may cooperate with any reputable association or organization having as one of its objectives the promotion of safety in the handling of firearms. The department may designate any person found by it to be competent to give instructions in the handling of firearms. A person so appointed shall give such course of instruction and upon the successful completion thereof shall issue to the person instructed a certificate of competency in the safe handling of firearms.

(3) **Class A-2 License—Special Bow and Arrow License.** Any holder of a Class A-1 license and any one of the following: a Class A-3, A-4, A-5, B-2, B-5 or B-6 license, may upon payment of an additional sum of three dollars ($3) to an agent of the fish and game commission authorized to issue fishing and hunting licenses be entitled to a Class A-2 license, which shall authorize the holder thereof to pursue, hunt, shoot, and kill deer, antelope Class A-2 license—special bow and arrow license.

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and elk with bow and arrow and to possess the carcass of deer, antelope and elk during a special season, as so licensed and in special areas, as may be designated by the fish and game commission.

Class A-3, A-4, A-5, licenses.

(4) **Class A-3, A-4, A-5 Licenses.** Any resident as defined by section 26-202.3 who is twelve (12) years of age or older, may upon payment of the proper fee or fees be entitled to purchase one each of the following licenses: Class A-3, Deer A Tag, three dollars ($3); Class A-4, Deer B Tag, five dollars ($5); Class A-5 Elk Tag, three dollars ($3); which will entitle the holder to pursue, hunt, shoot, and kill the game animal or animals authorized by the license held and to possess the dead bodies of game animals of the state which are so authorized by the regulation of the commission. Any holder of a Class A-3, A-4, or A-5 license shall further be entitled to pursue, hunt, shoot and kill black or brown bear and possess the dead bodies of black or brown bear which are so authorized by regulations of the commission.

Class B license—nonresident fishing license.

(5) **Class B License—Nonresident Fishing License.** Any person not a resident as defined in section 26-202.3, upon payment of the sum of fifteen dollars ($15) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B license, which shall entitle the holder thereof to fish with hook and line as authorized by the rules and regulations of the commission.

Class B-1 license—nonresident game bird license.

(6) **Class B-1 License — Nonresident Game Bird License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older, upon payment of the sum of twenty-five dollars ($25) to any agent of the fish and game commission authorized to issue fishing and hunting licenses shall be entitled to a Class B-1 license, which shall entitle the holder thereof to pursue, hunt, shoot, kill and possess game birds as authorized by the rules and regulations of the commission.

Class B-2 license—nonresident big game license.

(7) **Class B-2 License—Nonresident Big Game License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older, upon the payment of the sum of one hundred twenty-five dollars ($125) for the license year from May 1, 1967 to April 30, 1968 and thereafter for subsequent license years upon pay-

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ment of the sum of one hundred fifty dollars ($150) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B-2 license which shall authorize the holder to pursue, hunt, shoot, and kill game animals in the area or areas designated in the license, as determined by the commission, and to possess the carcasses of same, and to pursue, hunt, shoot, kill and possess game birds, and to fish with hook and line as may hereinafter be authorized by the rules and regulations of the commission.

Class B-3 license—temporary nonresident or tourist fishing license.

(8) **Class B-3 License—Temporary Nonresident or Tourist Fishing License.** Any person not a resident as defined in section 26-202.3, upon payment of the sum of five dollars ($5) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a temporary nonresident fishing license, which shall authorize the holder to fish with hook and line as authorized by the rules and regulations of the fish and game commission for a period of six (6) days inclusive of the dates indicated on the license.

Class B-5 license—nonresident deer license.

(9) **Class B-5 License—Nonresident Deer License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older, upon the payment of the sum of thirty-five dollars ($35) shall be entitled to a Class B-5 license which shall authorize the holder to pursue, hunt, shoot, and kill one (1) deer in the area or areas designated in the license, as determined by the commission, and to possess the carcass of same.

Class B-6 license—nonresident antelope license.

(10) **Class B-6 License—Nonresident Antelope License.** Any person not a resident as defined in section 26-202.3, but who is twelve (12) years of age or older, upon the payment of the sum of thirty-five ($35) shall be entitled to a Class B-6 license which shall authorize the holder to pursue, hunt, shoot, and kill one (1) antelope in the area designated in the license, as determined by the commission, and to possess the carcass of same.

Special licenses.

(11) **Special licenses.** Any applicant who is a resident as defined by section 26-202.3, or any applicant who is the holder of a Class B-2 nonresident big game license may apply for a special license, which in the judgment of the fish and game commission, is to be issued and shall pay the following fees therefor:

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Moose, resident twenty-five dollars ($25), nonresident fifty dollars ($50);

Mountain Goat, resident fifteen dollars ($15), nonresident thirty dollars ($30);

Mountain Sheep, resident twenty-five dollars ($25), nonresident fifty dollars ($50);

Bison or Buffalo, resident twenty-five dollars ($25), nonresident one hundred dollars ($100);

Antelope, resident three dollars ($3), nonresident ten dollars ($10);

Grizzly Bear, resident one dollar ($1), nonresident twenty-five dollars ($25).

In the event a holder of a valid special grizzly bear license kills a grizzly bear, he must purchase a trophy license for a fee of twenty-five dollars ($25) within ten (10) days after date of kill. Such trophy license shall authorize the holder to possess and transport said trophy.

In the event that the number of valid applications for special licenses exceeds the number of special licenses which the fish and game commission desires to issue in any hunting district, then the number of special licenses issued to the holders of Class B-2 nonresident big game licenses shall not exceed ten per cent (10%) of the total issued. Any holder of a special license as herein provided shall be further entitled to pursue, hunt, shoot and kill black or brown bear and possess the dead bodies of black or brown bear which are so authorized by regulations of the commission.

Class C license—trapper's license.

(12) **Class C License—Trapper's License.** Any resident as defined in section 26-202.3, upon making application and paying the sum of ten dollars ($10) to the fish and game commission, shall be entitled to a trapper's license, which shall authorize the holder thereof to trap fur-bearing animals, within the state of Montana at such times and in such manner as may be lawful so to do under the laws of the state and the regulations of the fish and game commission, and at such places as may be designated in said license.

Class C-1 license—landowner's trapping.

(13) **Class C-1 License—Landowner's Trapping License.** Any owner or tenant, or member of the immediate family of said owner or tenant, upon making application to

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the fish and game commission, and upon payment of the sum of one dollar ($1) shall be entitled to a landowner's trapping license which shall entitle the holder thereof to trap any fur-bearing animal, except beaver, on land owned or leased by him, or his immediate family, at such times and in such manner as may be lawful so to do under the laws of the state and the regulations of the fish and game commission and at such places as may be designated in said licenses.

Exception.

(14) **Exception.** (a) A resident under the definition of section 26-202.3, who is sixty-five (65) years or older shall be entitled to fish *and hunt game birds with a pioneer license issued by the state fish and game commission for a fee of fifteen cents ($.15). The form of such license shall be prescribed by the fish and game commission.*

(b) *Residents of all institutions under the jurisdiction of the state board of institutions, except the Montana state prison at Deer Lodge, will be entitled to fish without a license. Such residents shall carry a permit on a form prescribed by the commission and signed by the superintendent of the institution in lieu of a license.*

(c) *A veteran who is a patient residing at a hospital operated by the veterans administration, within or outside the state, may fish with a license issued by the head of the hospital on forms prescribed and furnished by the commission. The fee for such license shall be fifteen cents $(.15).*

(d) If a person is convicted of a violation of the fish and game laws or regulations of Montana, the privilege conferred by this subsection shall be revoked for not less than six (6) months.

(e) Residents, as defined by section 26-202.3, under the age of fifteen (15) years may purchase Class A-1, A-3, A-4, and A-5 licenses for one-half (½) of the fees prescribed in this section.

(f) The commission, by rule or regulation, may prescribe the number of Class B-5 and B-6 licenses to be issued in each of the hunting districts designated by it.

Special antelope licenses.

(g) **Special antelope licenses.** In the event the number of valid applications for special antelope licenses for a hunting district exceeds the quota set by the commis-

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sion for the district, such licenses shall be awarded by a drawing. Persons making valid application who did not receive an antelope license during the season immediately preceding the drawing shall be given first preference in such drawing for first, second and third choice hunting districts. The commission shall have the authority to promulgate such rules and regulations as are necessary to implement this subsection.

(15) Only one (1) license of any one (1) class, except Class B-3 and B-4 licenses, shall be issued to any one (1) person, provided, however, that the commission may prescribe rules and regulations for the issuance or sale of a replacement license of the same class in the event the original license is lost, stolen or destroyed upon payment of the sum of one dollar ($1).

Class AAA license —sportsman's license.

(16) **Class AAA License—Sportsman's License.** Any resident, as defined by section 26-202.3, who is twelve (12) years of age or older, upon payment of the sum of twenty dollars ($20) shall be entitled to a sportsman's license which shall permit the holder to exercise all rights granted to holders of Class A, A-1, A-3 and A-5 licenses. The commission shall furnish each holder of a sportsman's license an appropriate decal."

Approved: February 24, 1969.

CHAPTER 85

An Act to Require State Fish and Game Wardens (State Conservation Officers) to Enforce the Provisions of Sections 94-3308, 94-3309 and 32-4410, R.C.M. 1947, on Private Lands Where Public Recreation is Permitted, and Act as Ex-Officio Fire Wardens as Provided by Section 81-1412, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty of state conservation officers to enforce certain laws.

Section 1. It shall be the duty of state fish and game wardens (state conservation officers) to enforce the provisions of sections 94-3308, 94-3309 and 32-4410, R.C.M. 1947, on private lands where public recreation is permitted, and to act as ex-officio fire wardens as provided by section 81-1412, R.C.M. 1947.

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Section 2. State fish and game wardens (state conservation officers) shall have the power of peace officers in the enforcement of sections 94-3308, 94-3309 and 32-4410, R.C.M. 1947.

Approved: February 24, 1969.

CHAPTER 86

An Act Amending Section 53-120, R.C.M. 1947, to Include Payment of Five Dollars ($5.00) for All Sets of Duplicate Pioneer Licence Plates.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-120, R.C.M. 1947, is amended to read as follows: Amending clause.

"53-120. Replacing number plates. In the event of loss, mutilation, or destruction of number plates, the owner of the registered motor vehicle may obtain from the registrar of motor vehicles, duplicates thereof upon filing sworn declaration showing such fact and payment of a fee of two dollars ($2.00). *In the event of loss, mutilation, or destruction of Pioneer plates, duplicates may be obtained in the same manner upon payment of a fee of five dollars ($5.00).*" Replacing number plates.

Approved: February 24, 1969.

CHAPTER 87

An Act to Allow Residents of Montana to Purchase Any Rifle or Rifles and Shotgun or Shotguns in a State Contiguous to Montana and to Allow Residents of Contiguous States to Purchase Any Rifle or Rifles and Shotgun or Shotguns in Montana, Provided that Such Persons Conform to the Federal Gun Control Act of 1968 and Applicable State Laws.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Residents of Montana may purchase any rifle or rifles and shotgun or shotguns in a state contiguous to Montana, provided that such residents conform to the applicable provisions of the federal Gun Control Act of Residents of Montana may purchase firearms in states contiguous to Montana—conditions.

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1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such purchase in Montana and in the state in which the purchase is made.

Section 2. Residents of a state contiguous to Montana may purchase any rifle or rifles and shotgun or shotguns in Montana, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in Montana and in the state in which such persons reside.

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved: February 24, 1969.

CHAPTER 88

An Act Amending Section 75-5205, R.C.M. 1947, Increasing the Membership of the Advisory Board of the Montana Law Enforcement Academy.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-5205, R.C.M. 1947, is hereby amended to read as follows:

Advisory board of Montana law enforcement academy—members.

"75-5205. **Advisory board.** The Montana law enforcement academy shall be governed by an advisory board composed of one representative of each of the following organizations or departments to be appointed by the president, chief executive or officer in charge of each of the following departments or organizations: The Montana sheriffs and peace officers association, the Montana chiefs of police association, the county attorneys association, the attorney general's office, the Montana municipal league, the Montana county commissioners association, the Federal Bureau of Investigation, the Montana police protective association, *the Montana highway patrol, the Montana fish and game commission, the Montana livestock commission, the tribal police of one of the Indian reservations located*

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in Montana, and that unit of the university of Montana selected as a site for the academy. *The representative appointed by the Montana livestock commission shall be a duly appointed stock inspector or detective. The tribal policeman serving on the advisory board each year will be a member of the reservation that is designated for representation by a majority of the advisory board.* The representative of the university unit shall be selected after the site has been determined by the other members of the Montana law enforcement academy advisory board. The members of the advisory board shall be appointed for a term of one year and shall serve without compensation."

Approved February 24, 1969.

CHAPTER 89

An Act to Provide that Four Holidays Plus Labor Day Will Be Observed on Mondays in Order to Gain Uniform Holiday Observance Throughout the United States in Accordance with Public Law 90-363, Passed by the United States Congress; Amending Section 19-107, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 19-107, R.C.M. 1947, is amended to read as follows: Amending clause.

"19-107. **Legal holidays and business days defined.** The following are legal holidays in the state of Montana: Legal holidays.

(1) Each Sunday.

(2) New Year's Day January 1.

(3) Lincoln's Birthday, February 12.

(4) Washington's Birthday, the third Monday in February.

(5) Memorial Day, the last Monday in May.

(6) Independence Day, July 4.

(7) Labor Day, the first Monday in September.

(8) Columbus Day, the second Monday in October.

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(9) Veterans' Day, the fourth Monday in October.

(10) Thanksgiving Day, the fourth Thursday in November.

(11) Christmas Day, December 25.

(12) State General Election Day.

Business days.

If any of the above enumerated holidays (except Sunday) fall upon a Sunday, the Monday following is a holiday. All other days are business days.

Limitation of legal holidays for banks.

Whenever any bank in the state of Montana elects to remain closed and refrains from the transaction of business on Saturday, pursuant to authority for permissive closing on Saturdays by virtue of the laws of the state, legal holidays for such bank during the year of such election are hereby limited to the following holidays:

(1) Each Sunday.

(2) New Year's Day, January 1.

(3) Memorial Day, the last Monday in May.

(4) Independence Day, July 4.

(5) Labor Day, the first Monday in September.

(6) Thanksgiving Day, the fourth Thursday in November.

(7) Christmas Day, December 25.

Any bank practicing Saturday closing in compliance with law may remain closed and refrain from the transaction of business on Saturdays, notwithstanding that a Saturday may coincide with a legal holiday other than one of the holidays designated above for banks practicing Saturday closing in compliance with law, and provided further that it shall be optional for any bank, whether practicing Saturday closing or not, to observe as a holiday and to be closed on any day upon which a general election is held throughout the state of Montana and on Veterans' Day, *the fourth Monday in October,* and on any local holiday which historically or traditionally or by proclamation of a local executive official or governing body is established as a day upon which businesses are generally closed in the community in which the bank is located.''

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Section 2. This act is effective January 1, 1971. Effective date.

Approved: February 24, 1969.

CHAPTER 90

An Act to Amend Sections 26-301 and 26-332, R.C.M. 1947, to Allow the Commission to Set Seasons for Taking Walleyed Pike, Sauger and Northern Pike with Spear or Gig.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-301, R.C.M. 1947, is amended to read as follows: Amending clause.

"26-301. **Restrictions of manner of taking and possessing fish and game and powers of commission relating thereto.** 1. It shall be unlawful for anyone to take, capture, shoot, kill, or attempt to take, capture, shoot or kill, any game animal, or game bird from any self propelled or drawn vehicle, or on, or from any public highway in the state of Montana, or by the aid or with the use of any set gun, jack-light, or other artificial light, trap, snare, salt lick, nor shall any such set gun, jack-light or other artificial light, trap, snare, salt lick or other device to entrap or entice game animals or game birds be used, made or set, nor may rifles be used to hunt or shoot upland game birds unless the use of rifles is permitted by the commission; provided, however, that this does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number ten (10) gauge fired from the shoulder, nor shall any game fish be caught, captured, or taken, or attempted to be caught, captured or taken by the aid or with the use of any gun, or trap, nor shall any such set gun, or trap or other device to entrap game fish be used, made, or set. Restrictions of manner of taking and possessing fish and game and powers of commission relating thereto.

2. (a) No game birds or game or fur-bearing animals shall be killed, taken or shot at from any aircraft, nor shall any aircraft be used for the purpose of concentrating, pursuing, driving, rallying or stirring up any game or migratory birds, game or fur-bearing animals, nor shall any powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or

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any boat under sail be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving or stirring up any game birds, or migratory waterfowl, or game or fur-bearing animals.

(b) No person in an aircraft in the air shall spot or locate any game, or migratory bird, game or fur-bearing animals and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person or persons then on the ground.

3. No person shall take into a field or forest, or have in his possession while out hunting, any device or mechanism devised to silence or muffle or minimize the report of any firearms, whether such device or mechanism be operated from or attached to any firearm.

4. No person may use a shotgun to hunt, kill or shoot deer except with loads as specified by the commission.

5. No person shall chase with dogs any of the game or fur-bearing animals as defined by the fish and game laws of this state; provided, however, that livestock owners, employees of the state fish and game commission and of the federal fish and wildlife service may use dogs in pursuit of stock-killing bears, or other means of taking stock-killing bears except the use of the dead fall; providing, however, that traps used in capturing bear shall be inspected twice each day, which inspection shall be twelve (12) hours apart; and provided further, that a person may take game birds during the open season thereon with the aid of a dog or dogs and any person or association organized for the protection of game, may run field trials at any time upon obtaining written permission from the state fish and game director.

6. The state fish and game commission shall have the power to designate certain waters where set lines may be used to fish for certain species of game or nongame fish, and the commission may designate the number of hooks and lines and the length of line or lines which may be used as set lines.

7. Game fish shall be taken only by angling, that is by hook and single line in hand or single rod in hand, or within immediate control; this does not prevent, how-

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ever, the snagging of paddlefish, coho (silver salmon), and kokanee (sockeye salmon) when the commission shall declare an open season when paddlefish, coho (silver salmon), and kokanee (sockeye salmon) may be taken by snagging, the taking of paddlefish with long bow and arrow when the commission shall declare an open season when paddlefish may be taken by long bow and arrow, *the taking of walleyed pike, sauger, northern pike and nongame fish with spear or gig when the commission shall declare an open season for taking walleyed pike, sauger, northern pike and nongame fish with spear or gig,* nor the use of landing net or gaff to land a game fish after the same has been hooked by angling as above specified, nor does it prevent the taking of minnows other than game fish variety by the use or aid of a net not to exceed twelve (12) feet in length and four (4) feet in width, in such waters as may be designated by the commission.

8. Whenever said fish and game commission shall have made any orders, rules or regulations for the carrying out of the powers granted to it under this act, the same shall take effect and be in force from and after the publication and posting of notice of said orders, rules and regulations as required by the fish and game laws.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punishable as provided by law."

Section 2. Section 26-332, R.C.M. 1947, is amended to read as follows:

Amending clause.

"26-332. **Method of catching fish—use of traps, seines and nets—restrictions concerning possession and sale of fish.** Every person who takes or catches fish in any of the waters of this state except with hook and line held in hand, or line and hook attached to rod or pole held in hand, or who takes or catches fish with hook baited with any poisonous substance or by means of the use of any poisonous substance, including fish berries, or who takes or catches fish by means of the use of fish traps, grab hooks, seines, nets, or other similar means for catching fish, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as provided for in section 26-324, and the amendments thereto; provided, however, that the Montana fish and game commission shall have the power, authority, and jurisdiction, to designate

Method of catching fish—use of traps, seines and nets—restrictions concerning possession and sale of fish.

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such waters within the state of Montana, wherein, in the judgment of the members of said commission, *spears or gigs may be used for taking walleyed pike, sauger, northern pike and nongame fish, and* traps, seines, or nets, and rubber or spring propelled spears when employed by sportsmen swimming or submerged in the water, may be used for the taking of designated species of nongame fish and to close such waters so designated at the discretion of the commission, and to permit the taking of black bass in Flathead Lake, the taking of all fish by said means in said waters when so designated to be done under such rules and regulations as said commission may prescribe with reference thereto, and under the supervision of said commission, and all such *nongame* fish so taken may be possessed and sold in such manner and under such restrictions as said commission may direct, all fish other than those herein designated so taken under said rules and regulations when prescribed by said commission, shall be returned uninjured to the waters from which they were taken."

Approved: February 24, 1969.

CHAPTER 91

An Act Amending Section 82-109.2, R.C.M. 1947, Relating to Pre-Audit and Transmittal of Claims by the State Controller and Prohibiting Charges Against Appropriations Unless the Balance of the Appropriation is Available and Adequate.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-109.2, R.C.M. 1947, is amended to read as follows:

Pre-audit of liquidated or settled claims—transmittal of unliquidated or unsettled claims.

"82-109.2. **Pre-audit of liquidated or settled claims—transmittal of unliquidated or unsettled claims.** The state controller *may* pre-audit liquidated or settled claims against the state, including claims by transportation companies arising from state transportation requests, ascertaining that (1) the proper authorizing signature is present. (2) the claim and supporting documents are mathematically and clerically accurate, (3) the proper appropriation and fund is charged and (4) the expenditure is not illegal. *The state controller shall not make any charge against any*

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appropriation unless the balance of the appropriation is available and adequate. If no appropriation is available for the payment of a settled or liquidated claim, the controller shall audit it and, if it is a valid claim, transmit it to the governor through the office of director of the budget for presentation to the legislative assembly.

Any unliquidated or unsettled claims submitted to the state controller shall be transmitted to the state board of examiners to be processed as provided by law."

Approved: February 24, 1969.

CHAPTER 92

An Act Amending Section 92-413, R.C.M. 1947, to Include Unmarried Full-Time Students in Accredited Schools Under the Age of Twenty-One (21) Years in the Definition of Beneficiary; and Amending Section 92-417, R.C.M. 1947, to Include "Dependent" Stepchildren Within the Definition of Child; Both Definitions Being in the Workmen's Compensation Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-413, R.C.M. 1947, is amended to read as follows: Amending clause.

"92-413. **Beneficiary defined.** 'Beneficiary' means and shall include a surviving wife or husband and a surviving child or children under the age of eighteen years, *or an unmarried child under the age of twenty-one (21) years who is a full-time student in an accredited school,* and an invalid child or invalid children over the age of eighteen years, or if no surviving wife or husband then a surviving child or children under the age of eighteen years and an invalid child or invalid children over the age of eighteen years, provided, however, that no invalid child over the age of eighteen years shall be considered a beneficiary unless dependent upon the decedent for support at the time of injury." Beneficiary defined—to include unmarried full-time students in accredited schools under 21 years of age.

Section 2. Section 92-417, R.C.M. 1947, is amended to read as follows: Amending clause.

"92-417. **Child defined, to include whom.** 'Child' "Child."

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shall include a posthumous child, a *dependent* stepchild, a child legally adopted prior to the injury, an illegitimate child legitimized prior to the injury."

Approved: February 24, 1969.

CHAPTER 93

An Act to Establish Uniform Reporting Requirements for All State Executive Agencies; Amending Sections 1-202, 3-106, 3-2914, 4-227, 5-902, 12-404, 26-124, 27-306, 32-2409, 41-803, 41-906, 44-403, 46-2306, 60-127, 62-504, 66-109, 66-408, 66-513, 66-904, 66-1009, 66-1311, 66-1410, 66-1504, 66-2203, 66-2334, 69-4106, 70-111, 71-209, 75-107, 77-120, 80-1405, 81-1411, 82-111, 82-302, 82-1002, 82-1519, 82-3606, 87-120, 92-118, 94-9824, and 82-1916, R.C.M. 1947; and Repealing Sections 40-2712, 41-1607, 41-1608, 46-106, 46-242, 66-2106, 72-138, 75-1309, 75-1310, 81-206, 81-1702.4, 82-804.3, 82-2704, 82-3506, and 82-3708, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act, unless the context clearly indicates otherwise:

"State agency." (1) "State agency" means any elective official, office, department, board, bureau, or commission which is of the executive branch of state government.

"Elective official." (2) "Elective official" means the superintendent of public instruction, board of railroad commissioners, secretary of state, attorney general, state auditor, and state treasurer.

Written report. Section 2. (1) Before September 1 of each even numbered year, each state agency shall submit a written report to the governor of its activities during the immediately preceding fiscal biennium.

Report to contain. (2) Each report shall contain information prescribed by the governor describing fully the activities of the state agency. Reports shall contain recommendations from each state agency for improvements in programs administered by it.

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(3) State agency reports shall be filed in the governor's office and are open for inspection by any person. Filing of reports.

(4) From the reports submitted to him the governor shall: Governor's duties.

(a) delete extraneous or duplicated data;

(b) standardize the presentation of data to the extent feasible and desirable;

(c) request pertinent additional information he wishes included in the report;

(d) prepare a report for submission to the legislative assembly before the fifth legislative day of any regular session.

(5) Except as provided in subsection (6) of this section, the governor may authorize the publication of a state agency report in pamphlet form. The report in pamphlet form shall be published and distributed by the state agency responsible for reporting.

(6) An elective official may publish a biennial report in pamphlet form, in addition to the report to the governor required by subsection (1) of this section, without permission from the governor. Biennial reports by elective officials.

(7) Copies of each report published as provided in subsections (4), (5) and (6) of this section shall be distributed as follows: Distribution of reports.

(a) two (2) copies to the secretary of state;

(b) two (2) copies to the legislative council;

(c) two (2) copies to the legislative auditor;

(d) one (1) copy to each member of the legislative assembly;

(e) two (2) copies to the director of the budget;

(f) two (2) copies to the librarian of the state historical society;

(g) at least four (4) copies to the state publications distribution center of the state library and additional copies as requested by the state library;

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(h) additional distribution in the discretion of the governor or state agency.

Amending clause.

Section 3. Section 1-202, R.C.M. 1947, is amended to read as follows:

Organization—meetings—reports.

"1-202. **Organization—meetings—reports.** The commission shall shall, within thirty days after its appointment, organize, adopt a seal, and make such rules and regulations for its administration, not inconsistent herewith, as it may deem expedient and may from time to time amend such rules and regulations. At such organization meeting it shall elect from among its members a chairman, a vice-chairman and a secretary, to serve for one year, and annually thereafter shall select such officers; all to serve until their successors are appointed and qualified. It shall at its initial meeting fix the date and place for its regular meetings. Four members shall constitute a quorum, and no action shall be taken by less than a majority of the commission. Special meetings may be called as provided by its rules and regulations. All regular and special commission meetings shall be open to the public. It shall report *as provided in section 2 of this act.* The fiscal year of the commission shall conform to the fiscal year of the state."

Amending clause.

Section 4. Section 3-106, R.C.M. 1947, is amended to read as follows:

Biennial report.

"3-106. *Biennial* **report.** The commissioner of agriculture shall *report as provided in section 2 of this act.*

Amending clause.

Section 5. Section 3-2914, R.C.M. 1947, is amended to read as follows:

Commissioner to report.

"3-2914. **Commissioner to report.** The commissioner of agriculture and the chief of the wheat research and marketing division shall *report as provided in section 2 of this act.*"

Amending clause.

Section 6. Section 4-227, R.C.M. 1947, is amended to read as follows:

Reports to state examiner—biennial reports—contents.

"4-227. **Reports to state examiner**—*biennial* **reports—contents.** (1) Effective July 1, 1949 the board shall from time to time make reports to the state examiner covering such matters in connection with administraion or enforcement of this act as he may require, and shall *also report as provided in section 2 of this act.*

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(2) The books and records of the board shall be at all times subject to examination and audit by the state examiner or his duly authorized agents or employees."

Section 7. Section 5-902, R.C.M. 1947, is amended to read as follows: Amending clause.

"5-902. **Reports and records of superintendent.** The superintendent of banks shall keep all proper records and files pertaining to the duties and work of his office, and shall report *as provided in section 2 of this act.*" Reports and records of superintendent.

Section 8. Section 12-404, R.C.M. 1947, is amended to read as follows: Amending clause.

"12-404. **Duties of commissioners.** Each commissioner shall attend the meeting of the national conference of commissioners on uniform state laws, and both in and out of such national conference shall do all in his power to promote uniformity in state laws, upon all subjects where uniformity may be deemed desirable and practicable; said commission shall report *as provided in section 2 of this act.* It shall also be the duty of said commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws." Duties of commissioners.

Section 9. Section 26-124, R.C.M. 1947, is amended to read as follows: Amending clause.

"26-124. **Reports of state fish and game director.** The state fish and game *director* shall, on or before the first day of June of each year, make a written report to the state fish and game commission of the operation of his department during the preceding year ending April 30th and the state fish and game commission shall thereafter *report as provided in section 2 of this act.*" Reports of state fish and game director.

Section 10. Section 27-306, R.C.M. 1947, is amended to read as follows: Amending clause.

"27-306. **Powers and duties of the state board of food distributors.** (a) To regulate the quality of all food sold at retail in this state, using the state and federal pure food and drug acts as the standard. Board of food distributors—powers and duties.

(b) It may, by its duly authorized representative, enter and inspect any and all places where food is sold, vended, given away, or manufactured. It shall be unlawful for any person to refuse to permit or otherwise prevent

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such representative from entering such places and making such inspection.

(c) To report *as provided in section 2 of this act.*

(d) To employ necessary assistants, and make rules for the conduct of its business.

(e) To perform such other duties and exercise such other powers as the provisions of the act may require.

(f) For the purposes aforesaid, it shall also be the duty of the board to make and publish uniform rules and regulations not inconsistent herewith, for carrying out and enforcing the provisions of the act."

Amending clause.

Section 11. Section 32-2409, R.C.M. 1947, is amended to read as follows:

Duties of commission—reports.

"32-2409. **Duties of commission—reports.** The commission shall: (1) Make all rules and regulations necessary for its government.

(2) Maintain and preserve all its records in its office at the capitol, keeping its office open as such times as its business shall require.

(3) File and preserve:

(a) A record of all proceedings and orders pertaining to the matters under its direction.

(b) Copies of all plans, specifications, contracts, estimates and official acts.

(4) Prepare and submit to the governor on or before the fifteenth day of each month a report of work constructed, under construction, and proposed for construction, the progress made during the preceding month, and recommendation for improvements and their estimated costs.

(5) *Report as provided in section 2 of this act.*"

Amending clause.

Section 12. Section 41-803, R.C.M. 1947, is amended to read as follows:

Division of vocational rehabilitation—duties of director.

"41-803. **Director of division of vocational rehabilitation.** The division shall be administered, under the general supervision and direction of the state board, by a director appointed by such board in accordance with estab-

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lished personnel standards and on the basis of his education, training, experience, and demonstrated ability. In carrying out his duties under this act, the director

(a) shall make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings and such other regulations as he finds necessary to carry out the purposes of this act;

(b) shall, with the approval of the state board, establish appropriate subordinate administrative units within the division;

(c) shall, with the approval of the state board, appoint such personnel as he deems necessary for the efficient performance of the functions of the division;

(d) shall prepare and submit to the state board annual reports of activities and expenditures, and *report as provided in section 2 of this act;*

(e) shall make certification for disbursement, in accordance with regulations, of funds available for vocational rehabilitation purposes;

(f) shall, with the approval of the state board, take such other action as he deems necessary or appropriate to carry out the purposes of this act;

(g) may, with the approval of the state board, delegate to any officer or employee of the division such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this act.''

Section 13. Section 41-906, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"41-906. **Decisions of board—report to governor.** Upon the receipt of said application and after such notice, the board shall proceed as before provided, and render a written decision, which shall be open to the public inspection, shall be recorded upon the records of the board, *the board shall report as provided in section 2 of this act.''* **Decisions of board—report to governor.**

Section 14. Section 44-403, R.C.M. 1947, is amended to read as follows: **Amending clause.**

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Powers and duties of board.

"44-403. **Powers and duties of board.** The powers and duties of said board are as follows:

(1) To make rules and regulations, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library shall be open to the public, and the office hours of the library.

(2) To appoint a librarian and prescribe the duties of such librarian, when not otherwise provided for by law.

(3) To sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund.

(4) To see that the books and other properties of the library are maintained in good order and repair, and are protected from theft or injury.

(5) To draw from the state treasury at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals and other works and properties therefore, including complete sets of statutory laws and codified laws of the United States of America and of the several states of the union, and other jurisdictions, any moneys in the funds and available for such purposes.

(6) To report *as provided in section 2 of this act.*

(7) To establish such lawful relations and working arrangements with the library of Congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States, as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such sources as may be useful to those resorting to the facilities of the state law library."

Amending clause.

Section 15. Section 46-2306, R.C.M. 1947, is amended to read as follows:

Compensation of members—auditing and payment of claims.

"46-2306. **Compensation of members—auditing and payment of claims.** The members of the commission shall receive no compensation for their services other than the actual amount of traveling expenses actually incurred in respect to the performance of their official duties in at-

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tendance at regular or special meetings of the board and ten dollars ($10) per diem for each day actually in attendance at such board meetings. The per diem of each member of the board shall be limited to not exceed the amount of five hundred dollars ($500) per year, such per diem and expenses to be audited, allowed and paid as herein provided.

The commission shall audit all claims, accounts or bills for expenses, per diem, or expenditures incurred by it or its employees. If the commission approves them they shall be processed as provided by law and paid from the moneys of the Montana grass conservation commission in the earmarked revenue fund; provided that the board may by resolution authorize the secretary to audit and certify all expenses, salaries, and expense accounts of the commission, or its employees, and such audit shall be made a part of the commissioner's report *as provided in section 2 of this act.*"

Section 16. Section 60-127, R.C.M. 1947, is amended to read as follows: Amending clause.

"60-127. **Powers and duties of commission.** A. The commission has jurisdiction to exercise effectively the authority granted it by this act. Powers and duties of commission.

B. The commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify any action by the commission under the authority granted by this act with respect thereto.

C. The commission has authority, and it is its duty:

(1) To require: (a) identification of ownership of oil or gas wells, producing properties and tanks, (b) the making and filing of acceptable well logs, reports on well locations, and the filing of directional surveys, if made, provided, however, that logs of exploratory or wildcat wells need not be filed for a period of six (6) months following completion of such wells, (c) the drilling, casing, producing and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, blowouts, cavings, seepages, and fires: and the pollution of fresh water supplies by oil, gas, salt, or brackish water, (d) the furnishing of a reasonable bond with good and sufficient

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surety, conditioned for performance of the duty to properly plug each dry or abandoned well, (e) proper gauging or other measuring of oil and gas produced and saved to determine the quantity and quality thereof, (f) that every person who produces, transports or stores oil or gas in this state shall make available within this state for a period of five (5) years complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may prescribe with respect to quantities, transportations, and storages of such oil or gas.

(2) For the purpose of preventing waste, (a) to regulate the drilling, producing and plugging of wells, the shooting and chemical treatment of wells, the spacing of wells, operations voluntarily entered into to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations and (b) to fix, upon application made by any interested person after hearing, efficient gas-oil and water-oil ratios for any particular well or wells.

(3) To regulate disposal of salt water and oil field wastes.

(4) To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this act.

(5) To promulgate and to enforce rules, regulations and orders to effectuate the purposes and the intent of this act.

(6) *To report as provided in section 2 of this act.*

D. The commission shall have power and it shall be its duty to determine and prescribe what producing wells shall be defined as 'stripper wells' and what wells shall be defined as 'wild cat wells,' and to make such orders as in its judgment shall be required to protect such wells, and to provide that stripper wells may be produced to capacity if it is deemed necessary in the interest of conservation so to do.

E. With respect to any pool or pools from which gas was being produced by a gas well or gas wells on or prior to the date on which this act takes effect, this act shall

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never be so construed as to authorize the commission at any time to limit or restrain the rate (daily or otherwise) of production of gas from such pool or pools by any well then or hereafter drilled and producing from such pool or pools to less than the rate at which such well can be produced without adversely affecting the quantity of gas ultimately recoverable by such well."

Amending clause.

Section 17. Section 62-504, R.C.M. 1947, is amended to read as follows:

Commission's report—public record.

"62-504. **Commission's report—public record.** The commission shall keep detailed records of all meetings and of the business transacted therein, and all licenses applied for and issued. *The commission shall report as provided in section 2 of this act.*

All records of the commission shall be public records, and as such subject to public inspection."

Amending clause.

Section 18. Section 66-109, R.C.M. 1947, is amended to read as follows:

Compensation of board members—disposition of funds—report.

"66-109. **Compensation of members of board—disposition and use of funds—report.** Each member of the examining board is hereby allowed the sum of twenty dollars ($20) per day and mileage at the rate of ten cents *($.10)* per mile while in the discharge of his actual duties.

And all fees and moneys received for licenses from practicing architects shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the board of architectural examiners.

The members of the board shall report *as provided in section 2 of this act.*"

Amending clause.

Section 19. Section 66-408, R.C.M. 1947, is amended ot read as follows:

Compensation, funds and reports.

"66-408. **Compensation, funds and reports.** Each members of the board shall receive a compensation of fifteen dollars ($15) per day while attending board meetings together with legitimate and necessary evpenses incurred in attending the meeting of said board.

The board shall make *reports as provided in section 2 of this act.*"

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Amending clause.

Section 20. Section 66-513, R.C.M. 1947, is amended to read as follows:

Disposition of fees—receipts and disbursements—reports—per diem and mileage.

"66-513. **Disposition of fees—receipts and disbursements**—*reports*—**per diem and mileage.** All examinations and renewal fees received by the state board of chiropractic examiners under this act shall be paid to the secretary-treasurer of said board, who shall at the end of each month deposit the same with the state treasurer, and the said state treasurer shall place said money so received in the earmarked revenue fund for the use of the state board of chiropractic examiners.

The secretary-treasurer shall keep a true and accurate account of all funds received and all vouchers issued by the board; and *shall report as provided in section 2 of this act.*

The members of said board shall receive a per diem of of twenty-five dollars ($25) for each day during which they shall be actually engaged in the discharge of their duties ,and mileage at the rate of ten cents *($.10)* per mile for each mile necessarily traveled in going to and from any meeting of said board."

Amending clause.

Section 21. Section 66-904, R.C.M. 1947, is amended to read as follows:

"66-904. **Meetings — notice — quorum — funds** — *reports*—**duties—accounts.** *(1)* The board shall meet at least once in each year or oftener at any point in the state of Montana at the call of the president and the secretary-treasurer. Five days' notice must be given by the secretary-treasurer to all board members of the time and place of the meeting of said board. The regular annual meeting of the board shall be held on the second Monday in July of each year. Three members of said board shall constitute a quorum for the transaction of business and its proceedings shall be open to public inspection in all cases of public interest. All moneys received by the board and/or its officers for the board, shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the state board of dental examiners.

(2) The board shall report as provided in section 2 of this act.

The secretary-treasurer shall keep a complete record of

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all meetings and proceedings of which records the secretary-treasurer shall be custodian, and he shall keep a true and complete account of all moneys received and disbursements made by the board and by him as such officer.

Section 22. Section 66-1009, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1009. **Compensation and expenses allowed board member—employment of clerks and counsel—secretary's compensation.** Each member of the board is hereby allowed the sum of twenty dollars ($20) per day and mileage while in the active and necessary discharge of his duties as a member of said board. The rate of mileage and attendance of witnesses before said board shall be the same as is now allowed in justice of the peace courts. The board must report *as provided in section 2 of this act.* The board may employ such clerical help and legal counsel as may be necessary to carry out the terms and provisions of this act. The secretary of the board shall receive such reasonable compensation for his services as may be fixed by said board.." Compensation and expenses allowed board member—employment of clerks and counsel—secretary's compensation.

Section 23. Section 66-1311, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1311. **Compensation of examiners—report.** Each member of the board may receive as compensation the sum of twenty-five dollars ($25) and necessary expenses for each day actually engaged in the duties of his office. All moneys received by the board shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the state board of examiners in optometry. The board shall report *as provided in section 2 of this act.*" Compensation of examiners—report.

Section 24. Section 66-1410, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-1410. **Compensation of board—report.** Each of the members of said board may receive as compensation a sum not to exceed twenty dollars ($20) for each day actually engaged in the duties of their office together with all legitimate and necessary expenses incurred in attending the meetings of said board. The fees coming into said board shall be deposited into the state treasury to the credit of the earmarked revenue fund for the use of the state board of osteopathic examiners. Said board shall report *as provided in section 2 of this act.*" Compensation of board—report.

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Amending clause.

Section 25. Section 66-1504, R.C.M. 1947, is amended to read as follows:

Montana state board of pharmacy—powers of board.

"66-1504. **Montana state board of pharmacy—powers of board.** (a) Organization of board, officers. The board shall annually elect from its members a president, a vice-president, a treasurer, and a pharmacist, who may or may not be a member, as secretary.

(b) **Powers and duties of board of pharmacy.** The Montana state board of pharmacy shall have power, and it shall be its duty:

(1) To regulate the practice of pharmacy in the state of Montana subject to the provisions of this act.

(2) To determine the minimum equipment necessary in and for a pharmacy and drug store.

(3) To regulate, under therapeutic classification, the sale of drugs, medicines, chemicals and poisons and their labeling.

(4) To regulate the quality of all drugs and medicines dispensed in this state, using the United States pharmacopoeia and the national formulary, or any revisions thereof, as the standards.

(5) To enter and inspect by its duly authorized representative at any reasonable times any and all places where drugs, medicines, chemicals or poisons are sold, vended, given away, compounded, dispensed or manufactured. It shall be a misdemeanor for any person to refuse to permit or otherwise prevent such representative from entering any such places and making such inspection.

(6) To examine, license and register as pharmacists all applicants whom the board shall deem qualified as such as prescribed herein. To license pharmacies and certain stores, and to issue certificates of 'certified pharmacy' as in this act provided.

(7) To revoke temporarily or permanently, upon fair hearing, after reasonable notice of formal charges have been served, licenses issued by it to any pharmacist or assistant pharmacist whenever the holder of such license has obtained the same by false representations or fraud of any character or shall be an habitual drunkard or addicted to the use of narcotic drugs, or shall have been convicted

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of a felony, or shall have been convicted of violating the pharmacy law, or shall have been found guilty by the board of incompetency in the preparation of prescriptions, or guilty of gross immorality affecting the discharge of his duties as a pharmacist or assistant subject to the right of any person whose license may be revoked to review by the district court of the proper county on any question of law and fact.

(8) To report *as provided in section 2 of this act.*

(9) To employ necessary assistants, and make rules for the conduct of its business.

(10) To perform such other duties and exercise such other powers as the provisions of the act may require.

(11) For the purposes aforesaid, it shall also be the duty of the board to make and publish uniform rules and regulations not inconsistent herewith, for carrying out and enforcing the provisions of the act."

Section 26. Section 66-2203, R.C.M .1947, is amended to read as follows: Amending clause.

"66-2203. **Expenses and funds—records and reports.** Each member of the board shall be entitled to receive all necessary traveling and subsistence expenses. The secretary-treasurer shall receive an additional salary to be fixed annually by the board and not to exceed five hundred dollars ($500) per annum. The board shall keep full and complete minutes of its proceedings and of its receipts and disbursements and a full and accurate list of all persons licensed and registered by it, and such records shall be public records, and shall, at all times, be open to public inspection. All moneys received by the board shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the state board of veterinary examiners. Said board shall *report as provided in section 2 of this act.*" Expenses and funds—records and reports.

Section 27. Section 66-2334, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2334. **Records and reports—register.** *(1)* The board shall keep a record of its proceedings and a register of all applicants for registration, which register shall show (a) the name, age, and residence of each applicant; Records and reports—register.

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(b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) the branch or branches of engineering in which the applicant qualified; (f) whether or not an examinations was required; (g) whether the applicant was rejected; (h) whether a certificate of registration was granted; (i) the date of the action of the board; and (j) such other information as may be deemed necessary by the board.

(2) The records of the board shall be prima-facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(3) The board shall report as provided in section 2 of this act."

Amending clause.

Section 28. Section 69-4106, R.C.M. 1947, is amended to read as follows:

Functions, powers and duties of state board.

'69-4106. **Functions, powers and duties of state board.** (1) The state board shall:

(a) advise the executive officer in all public health matters;

(b) hold hearings, administer oaths, subpoena witnesses, and take testimony in all matters relating to the duties of the state board or the department;

(c) bring actions in court for enforcement of health laws and defend actions brought against the state board or department;

(d) after consultation with the executive officer, adopt and enforce rules and standards for carrying out provisions of section 5 [69-4105] of this act and for the preservation of public health and prevention of disease;

(e) make rules covering the qualifications and professional activities, duties, services, and administration of school and local public health nurses;

(f) make rules for the transportation of dead bodies;

(g) report *as provided in section 2 of this act.*

(2) The state board may accept and expend federal funds available for public health services."

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Amending clause.

Section 29. Section 70-111, R.C.M. 1947, is amended to read as follows:

Records and reports of commission.

"70-111. **Records and reports of commission.** The commission shall make reports *as provided in section 2 of this act,* which reports shall, as nearly as may be, conform in a general way to those of the railroad commission of the state, and be made at the same time. All the reports, records, accounts, files, papers, and memoranda of every nature in the possession of the commission shall be open to the public at all reasonable times, subject to the exception that when the commission deems it necessary, in the interest of the public, it may withhold from the public any facts or information in its possession for a period of not more than ninety days after the acquisition of such facts or information."

Amending clause.

Section 30. Section 71-209, R.C.M. 1947, is amended to read as follows:

Powers and duties of the state administrator.

"71-209. **Powers and duties of the state administrator.** *(1)* The administrator shall be the executive and administrative officer of the state department of public welfare and shall act as secretary of the state board. Before each regular biennial meeting of the legislative assembly he shall prepare and submit to the state board of public welfare for its consideration budget estimates of all funds required to be appropriated by the legislative assembly for the operation of the department during the two next ensuing fiscal years as fiscal years are defined by section 59-701. These budget estimates shall contain all information necessary for their consideration. After these budget estimates have been considered by the state board of public welfare, the administrator shall submit these budget estimates to the state budget director with requests for appropriations.

(2) The state administrator shall report as provided in section 2 of this act.

(3) In conformity with the merit system governing the selection and entire status of officers and employees in the state department of public welfare and in all county departments of public welfare in the state of Montana, adopted by the state board of public welfare and approved by the social security board, the state administrator shall appoint such other state department and supervisory field personnel as may be necessary for the efficient perform-

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ances of the activities of the state department. The administrator shall also supervise the appointment, dismissal and entire status of the public assistance staff attached to the county boards of public welfare in accordance with the merit system. All state department and county department personnel shall be legal residents of the state of Montana, unless it is impossible to find residents of the state possessing qualifications required by the merit system."

Amending clause.

Section 31. Section 75-107, R.C.M. 1947, is amended to read as follows:

Powers and duties.

"75-107. **Powers and duties.** The state board of education shall have power and it shall be its duty:

1. To have general control and supervision of the Montana state university, *university of* Montana, Montana *college of mineral science and technology, western* Montana *college,* eastern Montana *college,* and northern Montana college, all being units of the university of Montana. It is the purpose of this act that the said six (6) units of our university system shall be considered for all purposes one university. The state board of education shall serve ex officio as regents of the university of Montana and shall use and adopt this style in all its dealings therewith.

2. To adopt rules and regulations, not inconsistent with the constitution and the laws of this state, for its own government, and proper and necessary for the execution of the powers and duties conferred upon it by law.

3. To provide, subject to the laws of the state, rules and regulations for the government of the affairs of the state educational institutions named in this section.

4. To prescribe standards of promotion to the high school department of all public schools of the state, and to accredit such high schools as maintain the standards of work prescribed by the board on all such matters of promotion and accrediting. The board shall act upon recommendation given to it by the state superintendent of public instruction.

5. To grant diplomas to the graduates of all state educational institutions, where diplomas are authorized or now granted, upon the recommendation of the faculties thereof, and may confer honorary degrees, upon persons, other than

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graduates, upon the recommendation of the faculty of such institutions.

6. To adopt and use, in the authentication of its acts, an official seal.

7. To keep a record of its proceedings.

8. To report *as provided in section 2 of this act.*

9. To appoint and commission experienced teachers as instructors in county institutes.

10. To have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the institutions and colleges named in this section.

11. To receive from the state board of land commissioners, or other boards, or persons or from the government of the United States, any and all funds, incomes, and other property to which any of said institutions may be entitled, and to use and approprite the same for the specific purpose of the grant or donation, and none other; and to have general control of all receipts and disbursements of any of said institutions.

12. To choose and appoint a president and faculty for each of the various state institutions named herein, and to fix their compensation. The board must appoint an executive secretary of the university of Montana and fix his term of office and salary and prescribe generally his duties. Said executive secretary shall not be a member of the board. The executive secretary of the university of Montana shall serve as the secretary for the board sitting as the university regents.

13. To appoint each two (2) years a budget committee composed of four (4) members selected from the appointive members of the board, whose duties shall be to review the budget requests presented by the institutions composing the university of Montana and to transmit such requests to the board together with recommendations thereon.

14. To confer upon the executive board of each of said institutions such authority relative to the immediate control and management, other than financial, and the selection of the faculty, teachers, and employees, as may be deemed expedient, and may confer upon the president and faculty

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such authority relative to the immediate control, and management, other than financial, and the selection of teachers and employees, as may by said board be deemed for the best interest of said institutions."

Amending clause.

Section 32. Section 77-120, R.C.M. 1947, is amended to read as follows:

Duties of adjutant general—salary.

"77-120. **Duties of adjutant general—salary.** The adjutant general shall be ex officio chief of staff. He shall hold office until his successor is appointed and qualified. He shall appoint the civilian employees of his department, and may remove any of them in his discretion.

The expenses of the adjutant general's department, necessary to the military service, shall be audited, allowed, and paid as other military expenditures are audited, allowed, and paid.

1. The adjutant general shall keep a roster of all active, reserve, and retired officers of the militia of the state, and keep in his office all records and papers required to be kept and filed therein, and shall *report as provided in section 2 of this act.*

2. He shall cause the military law, the regulations of the organized militia of Montana, and such other military publications as may be necessary for the military service, to be printed, indexed, and bound at expense of the state, and distributed to the commissioned officers of the organized militia of Montana.

3. He shall keep and preserve the books, arms, accoutrements, ammunition, and other military property belonging to the state, not properly issued.

4. He shall keep just and true accounts of all moneys received and disbursed by him.

5. He shall attest all commissions issued to military officers of this state.

6. He shall make out and transmit all militia reports, returns, and communications prescribed by acts of Congress or by direction of the secretary of war.

7. He shall have a seal, and all copies, orders, records, and papers in his office, duly certified and authenticated under said seal, shall be evidence in all cases in like man-

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ner as if the originals were produced. The seal now used in the office of the adjutant general shall be the seal of his office, and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with said seal.

8. He shall make such regulations pertaining to the preparation of reports and returns, and to the care and preservation of property in possession of the state for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand.

9. He shall attend to the care, preservation, safekeeping, and the repairing of the arms, ordnance, accoutrements, equipment, and all other military property belonging to the state, or issued to the state by the government of the United States for military purposes, and keep accurate accounts thereof. All military property of the state, which after proper inspection shall be found unsuitable for use of the state, shall be disposed of in such manner as the governor shall direct, and the proceeds thereof paid into the military fund of the state.

10. He shall issue such military property as the necessity of the service requires, and make purchases for that purpose. No military property shall be issued or loaned except upon an emergency to persons or organizations other than those belonging to the organized militia of Montana, except to such portions of the unorganized militia as may be called out by the governor.

11. He shall keep on file in his office the reports and returns of troops and heads of military departments, and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia.

12. The annual salary of the assistant adjutant shall be in such amount as may be specified by the legislative assembly in the appropriation to the adjutant general. If the legislative assembly does not specify the maximum salary of the assistant adjutant general, any increase in the salary of the assistant adjutant general must be approved by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.''

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Amending clause.

Section 33. Section 80-1405, R.C.M. 1947, is amended to read as follows:

Powers and duties of board.

"80-1405. **Powers and duties of board.** The board shall:

(1) Adopt general rules and regulations, not inconsistent with law, for the government of the department. Such rules and regulations may govern and provide for

(a) The admission, custody, transfer and release of residents of institutions except as otherwise provided by law. However, no such rules and regulations shall amend or alter the statutory powers and duties of the state board of pardons.

(b) The manufacture, production, acquisition, use, and transfer of materials, supplies, and produce, for and between institutions.

(c) The custody, expenditure, and receipt of moneys at institutions.

(d) Employment of personnel in institutions.

(2) Report *as provided in section 2 of this act.*

(3) Review and approve all budget requests for institutions prior to submittal to the director of the budget.

(4) Subject to the provisions of 'The Department of Administration Act,' lease or purchase lands for use by institutions, and classify such lands to determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all institutions for the food products that can be grown or produced on the lands, and the relative value of agricultural programs in the treatment or rehabilitation of the person confined in institutions.

(5) Utilize the staff and services of other state agencies and units of the university of Montana, within their respective statutory functions, to carry out the purposes of this act.

(6) Propose programs to the legislative assembly to meet the projected long-range needs of institutions, including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in institutions.

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(7) Encourage the establishment of programs at the local level for the prevention and rehabilitation of physical and mental disability.

(8) To choose, appoint and discharge the warden or superintendent of each of the institutions or facilities in the department and, unless the legislative assembly has specified the salary of the warden or superintendent of the institution or facility in the appropriation to the department of institutions, fix their compensation after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry."

Amending clause.

Section 34. Section 81-1411, R.C.M. 1947, is amended to read as follows:

Duties of state forester.

"81-1411. **Duties of state forester.** The state forester shall, under the direction and control of the state board of land commissioners, do all the field work in the selection, location, examination, appraisement, and reappraisement of state timberlands, whether now belonging to the state or hereafter granted to the state; he shall do all acts required of him to be performed by the said board, and under the direction of said board shall have general charge of the timberlands of the state. He shall act as secretary of the forestry board. He shall, under the supervision of the state board of land commissioners, execute all matters pertaining to forestry within the jurisdiction of the state; have charge of all firewardens of the state and direct and aid them in their duties; direct the protection, improvement and condition of state forests; take such action as is authorized by law to prevent and extinguish forest, brush and grass fires; enforce the laws pertaining to forest and brush-cover lands, and prosecute for any violation of such laws. He shall report *as provided in section 2 of this act.* He shall furnish notices, printing in large letters, calling attention to the danger from forest fires, and to the forest fire and trespass laws, and their penalties. Such notices shall be posted by the firewarden in conspicuous places in the several counties of the state, and particularly in brush and forest-covered country, at frequent intervals along streams and lakes frequented by tourists, hunters, and fishermen, at established camping sites, and in every post office in the forested region."

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Amending clause.

Section 35. Section 82-111, R.C.M. 1947, is amended to read as follows:

Assistance of controller to legislative assembly—reports of controller.

"82-111. **Assistance of controller to legislative assembly—reports of controller.** It shall be the duty of the controller to make all such reports and to submit all such information and data as the legislative assembly may request, and he shall, when requested so to do, attend all meetings of the appropriations committee of the house of representatives and of the finance and claims committee of the senate, and the controller shall, during the consideration of appropriation measures by the house and senate, devote so much of his time thereto as may be required by the above-named committees, under the direction of the respective chairmen of said committees."

Amending clause.

Section 36. Section 82-302, R.C.M. 1947, is amended to read as follows:

Secretary of commission—duties—limitation on salary and expense—report of commissioner to governor.

82-302. **Secretary of commission—duties—limitation on salary and expense—report of commission to governor.** The commission shall appoint, and at its pleasure remove, a secretary to the commission, whose duty it shall be to keep a full and true record of all its proceedings, preserve at its general office all its books, documents and papers, prepare for service such notices and other papers as may be required of him by the commission and to perform such other duties as the commission may prescribe; and he may under the direction of the commission issue subpoenas for the attendance of witnesses before the commission and may, under direction of the commission, administer oaths in all matters pertaining to the duties of his office or connected with the administration of the affairs of the commission. The necessary traveling and other necessary expenses, including the salary of the secretary not exceeding twenty-five dollars ($25) per month, which shall be determined by the commission, shall be paid monthly by the state treasurer on warrant properly drawn out of the proceeds of the tax to be collected as herein provided. The commission shall *report as provided in section 2 of this act.*"

Amending clause.

Section 37. Section 82-1002, R.C.M. 1947, is amended to read as follows:

Duties of state examiner.

"82-1002. **Duties of state examiner.** The duties of the state examiner and his assistants are:

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1. To examine at least once in each year the books and accounts of the state treasurer, clerk of the supreme court, county treasurers, county clerks, county assessors, district court clerks, county auditors, sheriffs, public administrators, boards of county commissioners of each county, and all other county and municipal officers, boards and institutions.

2. To prescribe the general methods and details of accounting for the receipt and disbursement of all moneys belonging to the counties, cities, towns, or school districts, and to establish in all such offices such general methods and details of accounting as are required by law or are prescribed by the state examiner, and all county, city, town or school district officers are hereby compelled to conform therewith.

3. To visit each and every office of the officers, boards and institutions named in this act at least once in each year; and at such time to examine the books, accounts and vouchers in said office, to verify statements of receipts and expenditures, and indebtedness, and to examine and pass upon the character and amounts of any commissions, percentage, or charges for services, exacted by any officer, and of all claims allowed by any of said officers, boards or institutions.

4. To visit twice each year, or oftener, without previous notice, each of the banks, banking corporations and saving banks, building and loan associations, investment and loan companies incorporated under the law of this state, or doing business under any law of the state concerning corporations, and to examine into their affairs and ascertain their financial condition; to inspect and verify the value and the amount of their securities and assets, and to inquire into any violation of laws governing such banks, institutions, building and loan associations.

5. The state examiner, after examination of the affairs of any officer or board of county commissioners, must make report to the governor and to the attorney general of the result of such examination, within sixty days thereafter; and if any violation of law or nonperformance of duty is found on the part of any such officer or board, they must be proceeded against by the attorney general or county attorney as provided by law.

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6. The state examiner, or his assistants, after the examination of the affairs of any county officers, must make report of such examination to the board of county commissioners and to the county attorney of such county, within thirty days after such examination; and if any violations of law or nonperformance of duty is found on the part of any county officer or board, such officer or board must be proceeded against by the county attorney of the county as provided by law.

7. The state examiner must report *as provided in section 2 of this act.*

8. It shall be the duty of the county attorneys of the various counties of the state of Montana and the city attorneys of the various cities and towns of the state of Montana to make report to the state examiner within thirty days after receiving from the state examiner the report of any examination of any county, city or town, as to what proceedings he has instituted or is intending to institute relating to violations of law and nonperformance of duty, as set forth in the report of the state examiner.

9. If any county or city attorney refuses or neglects to notify the state examiner within thirty days after receiving the report of any examination of any county, city or town, as to what proceedings he has instituted or is about to institute against any officer for violations of law or nonperformance of duty, as evidenced by matters of record, and as set forth in the state examiners report; the state examiner may withhold the salary of such county or city attorney by filing notice with the proper officials, until proper and satisfactory explanation has been made to the state examiner for such nonperformance of duty, provided further, that should the county or city attorney fail or refuse to prosecute such cases, the state examiner may employ an attorney to prosecute such case at the expense of the county, city, or town."

Amending clause.

Section 38. Section 82-1519, R.C.M. 1947, is amended to read as follows:

Compensation of chairman and officers—report.

"82-1519. **Compensation of chairman and officers—report.** It shall be the duty of all public officers to perform the duties relative to hail insurance under this act, without other compensation than that allowed by law. The chairman of the state board of hail insurance

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shall receive a salary in such amount as may be specified by the legislative assembly in the appropriation to the board of hail insurance and all appointed officers and employees under this act shall be allowed the per diem and mileage allowed state employees. The compensation of all appointed officers and employees of the board shall be fixed by the state board of hail insurance. If the legislative assembly does not specify the maximum salary for the head of the agency, the salary shall be fixed by the state board of hail insurance after approval by the board of examiners. Before approving any salary increase, the board of examiners shall review the salaries of comparable positions in Montana state government, other states, and private industry.

The chairman of the state board of hail insurance shall *report as provided in section 2 of this act.''*

Section 39. Section 82-3606, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3606. **Duties of council.** The duties of the council shall be: Duties of council.

(1) To encourage throughout the state the study and presentation of the arts and to stimulate public interest and participation therein;

(2) To co-operate with public and private institutions engaged within the state in artistic and cultural activities, including but not limited to, music, theatre, dance, painting, sculpture, architecture and allied arts and crafts and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) To foster public interest in the cultural heritage of our state and to expand the state's cultural resources;

(4) To encourage and assist freedom of artistic expression essential for the well-being of the arts;

(5) To report *as provided in section 2 of this act.''*

Section 40. Section 87-120, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-120. **Administration—duties and powers of commission.** It shall be the duty of the commission to ad- Administration—duties and powers of commission.

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minister this act; and it shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this act, which the commission shall prescribe. The commission shall determine its own organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. *The commission shall report as provided in section 2 of this act.* Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature, and make recommendations with respect thereto."

Amending clause.

Section 41. Section 92-118, R.C.M. 1947, is amended to read as follows:

Reports and bulletins which may be published.

"92-118. **Reports and bulletins which may be published.** The board shall have the power and authority to publish and distribute at its discretion from time to time, in addition to its report *required by section 2 of this act,* such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable."

Amending clause.

Section 42. Section 94-9824, R.C.M. 1947, is amended to read as follows:

Seal, orders, records, report.

"94-9824. **Seal, orders, records, report.** The board shall adopt an official seal of which the courts shall take judicial notice. A majority of the board shall constitute a quorum. Decision of the board may be by majority vote. The orders of the board shall not be reviewable except as to compliance of terms of this act. The board shall keep a record of its acts and decisions available to the public,

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providing, however, that all social records, including the pre-sentence report, the pre-parole report and the supervision history obtained in the discharge of official duty by any member or employee of the board, shall be confidential and shall not be disclosed directly or indirectly to anyone other than the members of the board or a judge; provided, however, that the board or a court may in its discretion, whenever the best interest or welfare of a particular defendant or prisoner makes such action desirable or helpful, permit the inspection of the report or any parts thereof by the prisoner or his attorney. *The board shall report as provided in section 2 of this act.*"

Amending clause.

Section 43. Section 82-1916, R.C.M. 1947, is amended to read as follows:

Printing and publications.

"82-1916. **Printing and publications.** The state purchasing agent shall have exclusive power, subject to the consent and approval of the governor, to contract for all printing for any purpose used by the state of Montana in any state office, elective or appointive or by any state board, commission, bureau, state institution or department except the printing of the decisions of the supreme court as provided in section 82-2004, and shall supervise and attend to all public printing of the state of Montana in the manner in this act provided, and shall prevent duplication and unnecessary printing; all forms, blanks and documents printed for distribution to the departments of the state government or state institutions shall be serially numbered and indexed by the state purchasing agent and sample copies of each thereof permanently retained in his office; and the state purchasing agent shall from time to time furnish to the public general information as to the nature, description and official numbers of such reports as are available for public distribution.

Unless otherwise provided by law, the state purchasing agent in letting contracts as provided in this act, for the printing, binding and publishing of all laws, journals and reports of the various offices, departments, boards, commissions and institutions of the state, shall have the power to determine the quantity, quality, style and grade of all such printing, binding and publishing."

Repealing clause.

Section 44. Sections 40-2712, 41-1607, 41-1608, 46-106, 46-242, 66-2106, 72-138, 75-1309, 75-1310, 81-206, 81-1702.4,

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82-804.3, 82-2704, 82-3506, and 82-3708, R.C.M. 1947, are repealed.

Approved: February 24, 1969.

CHAPTER 94

An Act to Amend Sections 79-101, 79-102, 79-108 and 79-109, R.C.M. 1947, to Revise the General Fiscal Duties of the State Auditor; to Delete the Provisions Requiring the Biennial Reports; to Allow the State Auditor to Offset Any Amount Due a State Agency Against Any Amount Owing the Debtor by any State Agency; to Give the Auditor Authorization to Establish a Cost Accounting System and to Charge for Services Rendered State Agencies; Raising the Time for Presentation of State Warrants from Six Months to One Year; Providing that Certain Payees Need Not Deposit a Bond Upon Issuance of a Duplicate Warrant; to Generally Update the Accounting Duties of the State Auditor in Keeping with Present Montana Law; Repealing Section 79-107, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 79-101, R.C.M. 1947, is amended to read as follows:

General fiscal duties of state auditor.

"79-101. **State Auditor—general fiscal duties.** It is the duty of the state auditor:

1. To superintend the fiscal concerns of the state.

2. When requested, to give information in writing to either house of the legislative assembly relating to the fiscal affairs of the state or the duties of his office.

3. To suggest plans for the improvement and management of the public revenues.

4. To keep an account of all warrants drawn upon the treasurer, *and such other account and appropriation records that he determines to be essential for the support of the accounting records maintained in the office of the state controller.*

5. To keep an account between the state and the state

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treasurer, and therein charge the state treasurer with the balance in the treasury when he came into office, and with all moneys, received by him, and credit him with all warrants drawn on and paid by him.

6. To keep a register of warrants, showing the fund upon which they are drawn, the number, in whose favor, *and the date issued.*

7. In his discretion to examine and settle the accounts of persons indebted to the state, and certify the amount to the treasurer, and upon presentation and filing of the treasurer's receipt therefor, to give such person a discharge and charge the treasurer therewith.

8. In his discretion to require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it.

9. To require all persons who have received any moneys belonging to the state, and have not accounted therefor, to settle their accounts.

10. In his discretion to inspect the books of any persons charged with the receipt, safekeeping, or disbursement of public moneys.

11. In his discretion to require all persons who have received moneys or securities, or have had the disposition or management of any property of the state of which an account is kept in his office, to render statements thereof to him; and all such persons must render statements at such times and in such form as he may require.

12. In his discretion to examine the collection of moneys due the state, and institute suits in its name for official delinquencies in relation to the assessment, collection, and payment of the revenue, and against persons who by any means have become possessed of public money or property, and failed to pay over or deliver the same, and against debtors of the state; of which suits the courts of the county in which the seat of government may be located have jurisdiction, without regard to the residence of the defendants.

13. In his discretion, to offset any amount due a state agency from a person or entity, against any amount owing such person or entity by any state agency. The

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state auditor may deduct from the claim, and draw his warrants for the amounts offset in favor of the respective state agencies to which due, and, for any balance, in favor of the claimant. Whenever insufficient to offset all amounts due state agencies, the amount available shall be applied in such manner as the state auditor, in his discretion, shall determine. If, in the discretion of the state auditor, the person or entity refuses or neglects to file his claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of such person or entity; if approved by the state controller it shall have the same force and effect as though filed by such person or entity. The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing such person or entity after any offset as in this section provided.

14. To draw warrants on the state treasurer for the payment of moneys directed by law to be paid out of the treasury; but no warrant must be drawn unless authorized by law.

15. To authenticate with his official seal all warrants drawn by him, and all copies of papers issued from his office.

16. In his discretion promulgate rules and regulations regarding the distribution and processing of warrants issued.

17. In his discretion establish a cost accounting system to determine the unit cost of issuing and processing warrants and provide for a system of charges for services rendered in issuing and processing warrants for claims submitted by any departmeent or agency of the state. No such charge shall be made for warrants issued against the general fund. Funds collected under this section for budgeted programs shall be deposited to the credit of the general fund. Funds collected for new or unforeseen programs may be deposited to the credit of a revolving fund account and expended for the purposes of paying the processing expenses incurred as a result of the new program.

18. To collect and pay into the state treasury all fees received by him.

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19. To perform such other duties as are prescribed by law.

20. In his discretion to establish, under the joint control of the state controller and the state auditor, a system of filing and storage of the original copy of claims paid by state warrant."

Section 2. Section 79-102, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-102. **Certificate of settlement.** The certificate mentioned in subdivision *7*, of section 79-101, must show by whom the payment is to be made; the amount thereof, and the fund into which it is to be paid, and must be numbered in order, beginning with number 1 at the commencement of each fiscal year." Certificate of settlement.

Section 3. Section 79-108, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-108. **Warrants—Presentations—Cancellation.** *All warrants drawn by the state auditor on the state treasury shall be presented for payment within one (1) year after the date of the issue thereof. Should the payee or legal holder of any warrant fail to present it for payment within the time specified, the state auditor shall enter the same as canceled on the books of his office and the amount shall be credited to the account from which it was drawn. Should the payee or legal owner of any canceled warrant present it for payment, or in the event the warrant has been lost or destroyed, the payee present a claim for payment, after the lapse of one (1) year from the date of issue, the state auditor may, upon proper showing by affidavit, issue a new warrant in lieu thereof, and the state treasurer is authorized to pay the new warrant. The state auditor shall furnish the state treasurer with a list of warrants canceled under the provisions of this section."* Warrants—presentation—cancellation.

Section 4. Section 79-109, R.C.M. 1947, is amended to read as follows: Amending clause.

"79.109. **Issuance of duplicate warrant.** *A.* The state auditor is hereby empowered and authorized to issue a duplicate warrant whenever any warrant drawn by him upon the treasurer of the state of Montana shall have been lost or destroyed. This duplicate warrant must be in the same form as the original, except that it must have Issuance of duplicate warrant.

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plainly printed across its face the word "duplicate," and, *except as herein provided,* no such warrant shall be issued or delivered, except the person entitled to receive the same shall deposit with the state auditor a bond in double the amount for which the duplicate warrant is issued, conditioned to save the state of Montana, and its officers, harmless on account of the issuance of said duplicate warrant.

When no bond of indemnity required.

B. No bond of indemnity shall be required:

(1) When the payee is the United States Government, a state of the United States, any agency, instrumentality or officer of the United States Government or of a state, or any county, city, city and county, town, district, or other political subdivision of a state or any officer thereof:

(2) When the owner or custodian is the state of Montana or any agency or officer thereof:

(3) When the owner or custodian is a bank, savings and loan association, admitted insurer, or trust company whose financial condition is regulated by the United States Government or by the state of Montana; or

(4) When the amount of the lost or destroyed warrant is less than fifty dollars ($50);

Provided, however, that where the owner or custodian applies under the provisions of subsection (3) or (4) hereof, the application shall include an agreement to indemnify and hold harmless the state, its officers and employees, from any loss resulting from the issuance of a duplicate warrant. Any loss incurred in connection with the issuance of a duplicate warrant shall be charged against the account from which the payment was derived."

Repealing clause.

Section 5. Section 79-107, R.C.M. 1947, is repealed.

Effective immediately.

Section 6. This act shall be effective upon its passage and approval.

Approved: February 24, 1969.

CHAPTER 95

An Act Providing for the Establishment and Operation of a State Central Payroll System.

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Be it enacted by the Legislative Assembly of the State of Montana:

State auditor to install and operate uniform state central payroll system.

Section 1. The state auditor shall install and operate a uniform state central payroll system for all state agencies. The auditor may provide for the orderly inclusion of state agencies into such system, and may make exceptions from the operation thereof for such periods as he determines necessary.

Payroll periods.

Section 2. The state central payroll system may provide for the fixing of payroll periods and designated days of the month on which salaried employees shall be paid for the preceding payroll period. Such pay date shall be uniform for all employees of each state agency employed in the same geographic area and shall not be more than ten (10) calendar days following the close of the payroll period.

Change of payroll period.

Section 3. The payroll period of employees of a state agency shall not be changed by inclusion of the agency into the state central payroll system, or by any revision or modification of the system, unless notice of the proposed change has been given to each employee, who will be affected by such change in the form and manner prescribed by the state auditor not less than sixty (60) days prior to the effective date of the change.

Payroll roster.

Section 4. The state auditor shall establish and maintain a payroll roster of all persons employed by every state agency and may establish and maintain a roster of all established positions. The payroll roster shall include both merit system and exempt employees, but shall not necessarily include emergency appointees, or the equivalent.

Changes in payroll roster.

Section 5. Each appointing power shall correctly and promptly certify to the state auditor all changes, modifications, additions and deletions to the payroll roster in compliance with all applicable merit service, fiscal, and other pertinent laws, rules, and regulations. The state central payroll system shall disburse or otherwise act in reliance upon all payroll roster certifications and attendance reports certified to the state auditor by the respective appointing powers.

Lost or destroyed payroll warrants.

Section 6. Upon receipt of proof, satisfactory to the state auditor, that a payroll warrant issued by the state auditor has been lost or destroyed prior to its delivery to

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the employee to whom it is payable, the state auditor shall, upon certification by the payee's appointing power, issue a duplicate warrant in payment of the same amount, without requiring a bond from the payee and any loss incurred in connection therewith, shall be charged against the account from which the payment was derived. A payroll warrant shall be considered to have been lost if it has been sent to the payee, but not received by him within a reasonable time, consistent with the policy of prompt payment of employees, or if it has been sent to a state officer or employee for delivery to the payee, or for forwarding to another state officer or employee for such delivery, and has not been received within such reasonable time.

Designation of person to receive warrants upon death.

Section 7. Any person now or hereafter employed by the state may file with his appointing power a designation of a person, who, notwithstanding any other provision of law, shall, on the death of the employee, be entitled to receive all warrants that would have been payable to the decedent had he survived. The employee may change the designation from time to time. A person so designated shall claim such warrants from the state auditor and on sufficient proof of identity, the state auditor shall re-issue the warrant in the name of the designated person and deliver said warrant to the designated person.

State payroll revolving account.

Section 8. An account in the revolving fund of the state treasury is hereby created, to be known as the state payroll revolving account, which account may be utilized for the payment of compensation to officers and employees of the state and all amounts withheld therefrom, pursuant to law. The amount to be disbursed from the state payroll revolving account at any time shall be determined by the state auditor, and on his order, shall be transferred forthwith from the fund, account, and appropriation otherwise properly chargeable therewith, to the state payroll revolving account.

Determination of salary rate.

Section 9. When the monthly or annual salary rate payable to an officer or employee of the state has been set by law or otherwise, notwithstanding any other provision of law, the weekly or hourly rate of pay shall be determined by dividing the annual salary by 52 weeks, or 2080 hours.

Charge for services.

Section 10. The state auditor may provide for a system of charges for services rendered by the state central payroll

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system to any department or agency of the state. Funds collected under this section shall be deposited to the credit of a revolving fund account and expended for the purpose of paying the expenses incurred by the state central payroll system.

Approved: February 24, 1969.

CHAPTER 96

An Act Amending Section 71-120, R.C.M. 1947, to Change the Amount Paid by Counties for Burial of Deceased Service Men and Women from One Hundred Fifty Dollars to Two Hundred Fifty Dollars and Change the Amount Paid by Counties for Burial of Deceased Female Residents of the Montana Veterans' Home from One Hundred Dollars to Two Hundred Fifty Dollars.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 71-120, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"71-120. **Burial of deceased military service men and women.** **Burial of deceased military servicemen and women.**

(1) It shall be the duty of the board of commissioners of each county in this state to designate some proper person in the county, who shall be known as veterans' burial supervisor, preferably an honorably discharged service man or woman, whose duty it shall be to cause to be decently interred the body of any honorably discharged service man or woman, who shall have served in any branch of the armed services of the United States and who may hereafter die or any service man or woman who died while in service during any declared or undeclared war, or female resident of the Montana veterans' home, who may hereafter die. Such burial shall not be made in any burial grounds or cemetery, or in any portion of any burial grounds or cemetery, used exclusively for the burial of pauper dead.

(2) The expense of burial shall be *two hundred fifty dollars ($250),* to be paid by the county commissioners of the county in which the deceased was an actual bona fide resident at the time of death.

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(3) The benefits hereof shall not be available in the case of any decedent whose executor, administrator or heirs waive the benefits.

(4) That the expense of each burial of a female resident of the Montana veterans' home, shall not exceed the sum of *two hundred fifty dollars ($250),* to be paid by the county commissioners of the county in which the deceased person resided prior to her admittance to the Montana veterans' home.

(5) In the event any such honorably discharged person, male or female, who shall have served in the armed services of the United States, and who is a resident of the state of Montana, shall die while temporarily absent from the state or county of his residence, then the provisions of this act shall apply, and the burial expenses not exceeding the amount herein specified shall be paid in the same manner as above provided.

(6) Whenever any such honorably discharged person, male or female hereinbefore described shall die at any public institution of the state of Montana, other than the state veterans' home, and burial for any cause shall not be made in the county of the former residence of the deceased, the officers of said state institution, as aforesaid, shall provide the proper burial herein prescribed except that the expense of each burial shall not exceed the sum herein allowed, which expense shall be paid by the county in which the decedent resided at the time of entry into such institution, but no such burial shall be covered by any special or standing contract whereby the cost of burial is reduced below the maximum hereinbefore fixed, to the disparagement of proper interment."

Approved: February 24, 1969.

CHAPTER 97

An Act Providing for the Registration of Subdivided Lands Situate Outside of Montana for Sale or Disposition Within Montana, and Providing Requirements for Such Registration; Naming the Montana Real Estate Commission to Administer This Act; Providing for Certain Exemptions; Providing for Full Disclosure of Material

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Facts Concerning Subdivided Lands Offered for Sale or Disposal; Providing for the Collection and Disposition of Fees; Providing Grounds for Revocation of Registration; Providing for Investigation and Hearing Procedures; Providing for Judicial Review of Administrative Decisions; Providing Penalties for Violation Including Civil Remedies for Damaged Parties; Providing for Service of Process and Extradition in Addition to Methods Already Provided by Law; Providing for Cease and Desist Orders for Certain Violations of This Act; Providing General Powers and Duties in the Administration of This Act; Providing for Annual Reports by Registered Subdividers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** When used in this act, unless the context otherwise requires:

"Disposition." (1) "disposition" includes sale, lease, assignment, or any other transaction concerning a subdivision, if undertaken for gain or profit;

"Offer." (2) "offer" includes every inducement, solicitation, or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit;

"Person." (3) "person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

"Purchaser." (4) "purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land;

"Subdivider." (5) "subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner;

"Subdivision and subdivided lands." (6) "subdivision" and "subdivided lands" mean any land which is divided or is proposed to be divided for the purpose of disposition into five (5) or more lots, parcels, units, or interests and also includes any land whether contiguous or not if five (5) or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

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Administrative agency.

Section 2. **Administrative agency.** This act shall be administered by the Montana real estate commission which hereinafter is called the "agency". The agency shall charge a fee, not to exceed five hundred dollars ($500) for each application for registration of subdivided lands received by it in accordance with this act, which shall be paid into the earmarked revenue fund to the credit of the agency and is hereby appropriated for the purposes of carrying out the provisions of this act. All expendtiures of said funds by the agency under the provisions of this act shall be certified and approved by the chairman of the agency and paid by the appropriate state officials. Payment shall be made upon warrants appropriately drawn out of the proper funds. The agency shall provide a system of accounting which shall show the amount of money received therefor, and also an itemized statement of expenses in connection therewith. The agency shall have the power to make orders concerning the disbursement of the moneys in said earmarked revenue fund, including the payment of compensation and expenses of its employees and board members.

Exemptions.

Section 3. **Exemptions.** (a) Unless the method of disposition is adopted for the purpose of evasion of this act, the provisions of this act do not apply to offers or dispositions of an interest in land:

(1) by a purchaser of subdivided lands for his own account in a single or isolated transaction;

(2) if fewer than five (5) separate lots, parcels, units, or interests in subdivided lands are offered by a person in a period of twelve (12) months;

(3) on which there is a residential, commercial, or industrial building, or as to which there is a legal obligation on the part of the seller to construct such a building within two (2) years from date of disposition;

(4) to persons who are engaged in the business of construction of buildings for resale, or to persons who acquire an interest in subdivided lands for the purpose of engaging and do engage in the business of construction of buildings for resale;

(5) pursuant to court order;

(6) by any government or government agency;

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(7) as cemetery lots or interests.

(b) Unless the method of disposition is adopted for the purpose of evasion of this act, the provisions of this act do not apply to:

(1) offers or dispositions of evidence of indebtedness secured by a mortgage or deed of trust of real estate;

(2) offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;

(3) a subdivision as to which the plan of disposition is to dispose to ten (10) or fewer persons;

(4) a subdivision as to which the agency has granted an exemption as provided in secion 10;

(5) offers or dispositions of securities currently registered with the investment commissioner of this state; and,

(6) offers or dispositions of any interest in oil, gas, or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by the United States or by the investment commissioner of this state.

Prohibitions on dispositions of interests in subdivisions.

Section 4. **Prohibitions on dispositions of interests in subdivisions.** Unless the subdivided lands or the transaction is exempt by section 3:

(1) No person may offer or dispose in this state of any interest in subdivided lands located without this state prior to the time the subdivided lands are registered in accordance with this act;

(2) No person may dispose of any interest in subdivided lands without this state unless a current public offering statement is delivered to the purshaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.

Application for registration.

Section 5. **Application for registration.** (a) The application for registration of subdivided lands shall be filed as prescribed by the agency's rules and regulations and shall contain the following documents and information:

(1) an irrevocable appointment of the agency to re-

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ceive service of any lawful process in any noncriminal proceeding arising under this act against the applicant or his personal representative;

(2) a legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, the dimensions of the lots, parcels, units, or interests and the relation of the subdivided lands to existing streets, roads, and other offsite improvements;

(3) the states or jurisdictions in which an application for registration or similar document has been filed and any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

(4) the applicant's name and address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this state;

(5) the name, address, and principal occupation for the past five (5) years of every director and officer of the applicant or person occupying a similar status or performing similar functions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within thirty (30) days of the filing of the application;

(6) a statement, in a form acceptable to the agency, of the condition of the title to the subdivided lands including encumbrances as of a specified date within thirty (30) days of the date of application by a title opinion of an attorney licensed to practice in this state, not a salaried employee, officer, or director of the applicant or owner, or by other evidence of title acceptable to the agency;

(7) copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(8) copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;

(9) if there is a lien or encumbrance affecting more

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than one (1) lot, parcel, unit, or interest a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;

(10) copies of instruments creating easements, restrictions, or other encumbrances, affecting the subdivided lands;

(11) a statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;

(12) a statement of the existing provisions for access, sewage, disposal, water, and other public utilities in the subdivision; a statement of the improvements to be installed; the schedule for their completion; and a statement as to the provisions for improvement maintenance;

(13) a narrative description of the promotional plan for the dispositoin of the subdivided lands together with copies of all advertising material which has been prepared for public distribution by any means of communication;

(14) the proposed public offering statement;

(15) any other information, including any current financial statement, which the agency by its rules or regulations requires for the protection of purchasers.

(b) If the subdivider registers additional subdivided lands to be offered for disposition, he may consolidate the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan.

(c) The subdivider shall immediately report any material changes in the information contained in an application for registration.

Public offering statement.

Section 6. **Public offering statement.** (a) A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. The proposed public offering statement submitted to the agency shall be in a form prescribed by its rules and regulations and shall include the following:

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(1) the name and principal address of the subdivider;

(2) a general description of the subdivided lands stating the total number of lots, parcels, units, or interests in the offering;

(3) the significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

(4) a statement of the use for which the property is offered;

(5) information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities, and customary utilities, and the estimated cost, date of completion, and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in subdivided lands;

(6) additional information required by the agency to assure full and fair disclosure to prospective purchasers.

(b) The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the agency approves or recommends the subdivided lands or disposition thereof. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the agency requires it.

(c) The agency may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the agency and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated.

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Section 7. **Inquiry and examination.** Upon receipt of an application for registration in proper form, the agency shall forthwith initiate an examination to determine that: Inquiry and examination.

(1) the subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyance in trust, or other safeguards have been provided;

(2) there is reasonable assurance that all proposed improvements will be completed as represented;

(3) the advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the agency in its rules and regulations and afford full and fair disclosure;

(4) the subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country within the past ten (10) years and has not been subject to any injunction or administrative order entered by any authority within the past ten (10) years restraining a false or misleading promotional plan involving land dispositions;

(5) the public offering statement requirements of this act have been satisfied.

Seciton 8. **Notice of filing and registration.** (a) Upon receipt of the application for registration in proper form, the agency shall issue a notice of filing to the applicant. Within ninety (90) days from the date of the notice of filing, the agency shall enter an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within ninety (90) days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay. Notice of filing and registration.

(b) If the agency affirmatively determines, upon inquiry and examination, that the requirements of section 7 have been met, it shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.

(c) If the agency determines upon inquiry and exam-

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ination that any of the requirements of section 7 has not been met, it shall notify the applicant that the application for registration must be corrected in the particulars specified within ten (10) days. If the requirements are not met within the time allowed the agency shall enter an order rejecting the registration, which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty (20) days, during which time the applicant may petition for reconsideration and is entitled to a hearing.

(d) No subdivided lands shall be registered or deemed registered until the subdivider shall have filed a bond with the agency running to the state of Montana, executed by a surety company authorized to do business in this state, on a form approved by the agency, condiitoned that the subdivider shall pay, to the extent of ten thousand dollars ($10,000) for each occurrence, any judgment recovered against him for loss or damage to any person arising out of the sale or disposition in Montana of any subdivided lands situate out-of-state.

Annual report.

Section 9. **Annual report.** (a) Within thirty (30) days after each annual anniversary of an order registering subdivided lands, the subdivider shall file a report in the form prescribed by the rules and regulations of the agency. The report shall reflect any material changes in information contained in the original application for registration.

(b) The agency may permit the filing of annual reports within thirty (30) days after the anniversary date of the consolidated registration in lieu of the anniversary date of the original registration.

General powers and duties.

Section 10. **General powers and duties.** (a) In the administration of this act, the agency shall have all of the powers and duties as stated in subsections (b), (c) and (d) of section 66-1927, R.C.M. 1947. The agency shall adopt reasonable rules and regulations relating to the administration of this act, but not inconsistent therewith, which may be amended or repealed. The rules and regulations shall include but need not be limited to:

(1) provisions for advertising standards to assure full and fair disclosure;

(2) provisions for escrow or trust agreements or other

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means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for;

(3) provisions for operating procedures; and,

(4) other rules and regulations necessary and proper to accomplish the purpose of this act.

(b) The agency by rule or order, after reasonable notice and hearing, may require the filing of advertising material relating to subdivided lands prior to its distribution.

(c) If it appears that a person has engaged or is about to engage in an act or practice constitutiong a violation of a provision of this act or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in any district court of this state to enjoin the acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The agency is not required to post a bond in any court proceedings.

(d) The agency may intervene in a suit involving subdivided lands. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings.

(e) The agency may:

(1) accept registrations filed in other states or with the federal government;

(2) contract with similar agencies in this state or other jurisdictions to perform investigative functions;

(3) accept grants in aid from any source.

(f) The agency shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices.

(g) The agency may exempt a subdivision of twenty-five (25) or fewer lots, parcels, units, or interests from the

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provisions of this act if it determines that the plan of promotion and disposition is primarily directed to persons in the local community in which the subdivision is situated.

Investigations and proceedings.

Section 11. **Investigations and proceedings.** (a) The agency may:

(1) make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this act or any rule or order hereunder or to aid in the enforcement of this act or in the prescribing of rules, regulations and forms hereunder;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the agency determines, as to all the facts and circumstances concerning the matter to be investigated.

(b) For the purpose of any investigation or proceeding under this act, the agency or any officer designated by rule or regulation may administer oaths or affirmations, and upon its own motion or upon request of any party may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

(c) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the agency may apply to any district court of this state for an order compelling compliance.

(d) Any person directly affected by any ruling, determination, or decision of the agency or any officer or employee thereof, may appeal the same to the Montana real estate commission for hearing and review by serving written notice of appeal upon the commission chairman within fifteen (15) days after such rule, determination or decision is mailed to, or served upon, such person. Notice of appeal shall state specifically the matters that the appellant desires reviewed, but shall not act as a stay unless otherwise pro-

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vided by this act. Upon receipt of notice of appeal, the chairman shall serve upon the appellant notice of time and place of said hearing not less than fifteen (15) days prior to the date of hearing, to be held in the offices of the commission in Helena, Montana, or elsewhere as the chairman shall order. All hearings shall be open to tbe public and conducted informally insofar as an orderly presentation will permit. The appellant, the commission chairman, or any officer or employee of the agency, or a member of the commission, may be represented by counsel and may introduce any material evidence or examine or cross-examine any person present as a witness. The commission shall consider all evidence presented or introduced under oath at the hearing and all other pertinent documents, papers or records available to it, and shall not be bound by any laws of evidence of this state. A full and complete record shall be kept of all proceedings and all testimony shall be recorded, but need not be transcribed unless the matter be further appealed. Four (4) members of the commission shall constitute a quorum, one of whom must be the chairman. No member of the commission shall hear any matter in which he has a personal interest, nor shall he represent any person or witness at the hearing. Any party to the proceedings may challenge any commissioner in writing, served upon the chairman of the commission five (5) days in advance of any scheduled appeal hearing, stating the reasons therefor, and if the commission shall find merit in the challenge, it shall disqualify the challenged member. If disqualification reduces the commisison membership to less than four (4), the remaining members shall appoint distinterested people to fill the vacancies to provide a four-man hearing commission. The commisison may postpone or continue a hearing from time to time as it deems necessary. As soon as possible after the hearing, the commission shall render its decision in writing, stating its findings and conclusions and showing the names of all members of the commission joining in the decision. The decision of any three (3) commissioners shall constitute the decision of the commission on any issue presented for its decision. If the appellant or his representative fails to appear at the hearing after due notice, and good cause for continuance is not shown, the commission shall render its decision upon the evidence presented to it. Copies of such decision shall be served upon all interested parties or their representatives, and shall be kept on file in

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the office of the commission in Helena, Montana, open to public inspection. The commission shall have continuing jurisdiction over all matters heard by it, to examine additional evidence, or to hear additional testimony, and to revise, modify, alter, amend or reverse all orders, demands, findings and decisions made by it at any time and shall not lose jurisdiction until jurisdiction has been taken by a court of competent jurisdiction in a proceeding filed in such court.

Cease and desist orders.

Section 12. **Cease and desist orders.** (a) If the agency determines after notice and hearing that a person has:

(1) violated any provision of this act;

(2) directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;

(3) made any substantial change in the plan of disposition and development of the subdivided lands subsequent to the order of registration without obtaining prior written approval from the agency;

(4) disposed of any subdivided lands which have not been registered with the agency; or

(5) violated any lawful order or rule of the agency; it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the agency will carry out the purposes of this act.

(b) If the agency makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the agency whenever possible by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held within twenty (20) days to determine whether or not it becomes permanent.

Revocation.

Section 13. **Revocation.** (a) A registration may be

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revoked after notice and hearing upon a written finding of fact that the subdivider has:

(1) failed to comply with the terms of a cease and desist order;

(2) been convicted in any court subsequent to the filing of the application for registration of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;

(3) disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

(4) failed faithfully to perform any stipulation or agreement made with the agency as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement; or

(5) made intentional misrepresentations or concealed material facts in an application for registration. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(b) If the agency finds after notice and hearing that the subdivider has been guilty of a violation for which revocation could be ordered, it may issue a cease and desist order instead.

Judicial review.

Section 14. **Judicial review.** (a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by an order pertaining to registration, a cease and desist order, an order of revocation, or any other final decision of the agency is entitled to judicial review under this act. This section does not limit utilization or the scope of judicial review available under other means of review, redress, relief, or trial *de novo* provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(b) Proceedings for review are instituted by filing a petition in any district court of this state within thirty (30) days after mailing notice of the final decision of the

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agency, or, if a rehearing is requested, within thirty (30) days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

(c) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon oppropriate terms.

(d) Within thirty (30) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under deview. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

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(1) in violation of constitutional or statutory provisions;

(2) in excess of the statutory authority of the agency;

(3) made upon unlawful procedure;

(4) affected by other error or law;

(5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) arbitrary, capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Penalties.

Section 15. **Penalties.** Any person who violates any provision of this act or who willfully violates any rule or regulation adopted under it or any person who willfully, in an application for registration, makes any untrue statement of a material fact or omits to state a material fact is guilty of a felony and may be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or he may be imprisoned for not more than two (2) years, or both.

Civil remedy.

Section 16. **Civil remedy.** (a) Any person who disposes of subdivided lands in violation of section 4, or who in disposing of subdivided lands makes an untrue statement of a material fact, or who in disposing of subdivided lands omit a material fact required to be stated in a registration statement or public offering statement or necessary to make the statements made not misleading, is liable as provided in this section to the purchaser unless in the case of an untruth or omission it is proved that the purchaser knew of the untruth or omission or that the person offering or disposing of subdivided lands did not know and in the exercise of reasonable care could not have known of the untruth or omission, or that the purchaser did not rely on the untruth or omission.

(b) In addition to any other remedies, the purchaser, under subsection (a), of this section may recover the consideration paid for the lot, parcel, unit, or interest in subdivided lands together with interest at the rate of six percent (6%) per year from the date of payment, property taxes paid, costs, and reasonable attorneys' fees, less the amount of any income received from the subdivided lands, upon tender of appropriate instruments of reconveyance.

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If the purchaser no longer owns the lot, parcel, unit, or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance, less the value of the land when disposed of and less interest at the rate of six percent (6%) per year on that amount from the date of disposition.

(c) Every person who directly or indirectly controls a subdivider liable under subsection (a), every general partner, officer, or director of a subdivider, every person occupying a similar status or performing a similar function, every employee of the subdivider who materially aids in the disposition, and every agent who materially aids in the disposition is also liable jointly and severally with and to the same extent as the subdivider, unless the person otherwise liable sustains the burden of proof that he did not know and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution as in cases of contract among persons so liable.

(d) Every person whose occupation gives authority to a statement which with his consent has been used in an application for registration or public offering statement, if he is not otherwise associated with the subdivision and development plan in a material way, is liable only for false statements and omissions in his statement and only if he fails to prove that he did not know and in the exercise of the reasonable care of a man in his occupation could not have known of the existence of the facts by reason of which the liability is alleged to exist.

(e) A tender of reconveyance may be made at any time before the entry of judgment.

(f) Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with this act or any rule or order under it is void.

Jurisdiction

Section 17. **Jurisdiction.** Dispositions of subdivided lands are subject to this act, and any district court of this state has jurisdiction in claims arising under this act if:

(1) the subdivider's principal office is located in this state; or

(2) any offer or disposiiton of subdivided lands is made in this state, whether or not the offeror or offeree is then

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present in this state, if the offer originates within this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

Interstate rendition.

Section 18. **Interstate rendition.** In the proceedings for extradition of a person charged with a crime under this act, it need not be shown that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding or other state.

Service of process.

Section 19. **Service of process.** (a) In addition to the methods of service of process provided for in the Montana rules of civil procedure service may be made upon any person for any cause arising under the provisions of this act by delivering a copy of the process to the office of the agency, but it is not effective unless:

(1) the plaintiff (which may be the agency in a proceeding instituted by it) forthwith sends a copy of the process and of the pleading by registered mail to the defendant or respondent at his last known address; and

(2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(b) If any person, including any nonresident of this state, engages in conduct prohibited by this act or any rule or order hereunder, and has not filed a consent to service of process and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct authorizes the agency to receive service of process in any noncriminal proceeding against him or his successor which grows out of the conduct and which is brought under this act or any rule or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection (a).

Foreign Land Sales Practices Act.

Section 20. **Short title.** This act may be cited as the Foreign Land Sales Practices Act.

Severability.

Section 21. **Severability.** If any provision of this act of the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given ef-

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fect without the invalid provisions or application, and to this end the provisions of this act are severable.

Repealing clause.

Section 22. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: February 24, 1969.

CHAPTER 98

An Act to Amend Section 68-709, R.C.M. 1947, Enacted as Paragraph (n) of Section 18, Chapter 212, Laws of 1945, to Provide for the Payment of Interest Upon Amounts Redeposited in the Public Employees' Retirement Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 68-709, R.C.M. 1947, enacted as Paragraph (n) of Section 18, Chapter 212, Laws of 1945, is amended to read as follows:

Redeposit of withdrawn contributions—reinstatement of membership.

"68-709. **Redeposit of withdrawn contributions—reinstatement of membership.** Any member may redeposit in the retirement fund, in one (1) sum or in not to exceed twelve (12) monthly or twenty-four (24) semimonthly payments, an amount equal to that which he withdrew therefrom at the last termination of his membership *plus an amount equal to the interest which would have been credited to his account had the member not withdrawn his contributions upon termination of membership,* subject to minimum monthly or semimonthly payments as fixed by the board of administration. If a member, upon re-entering the retirement system after a termination of his membership, does not elect to make or, having so elected, subsequently does not make such redeposit, he shall re-enter as a new member without credit for any service except the prior service credited to him before said termination *but if he does make such redeposit* his membership shall be the same as if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and benefi-

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ciaries nominated in such documents shall continue unchanged until changed as provided herein."

Approved: February 24, 1969.

CHAPTER 99

An Act Relating to Weights and Measures, Providing for a State Sealer of Weights and Measures, Providing for a System of Weights and Measures, Regulating the Sale of Commodities by Weight and Measure, Providing for Enforcement: Repealing Sections 90-101 Through 90-119, 90-120 Through 90-129, 90-131, 90-133 Through 90-143, 90-145 Through 90-152, 90-601 Through 90-620, 3-202, 3-2432, 3-2433, 11-958, 50-603, 50-408, 50-409, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Meaning of terms.—When used in this act.** "Person." (1) The word "person" shall be construed to mean both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.

(2) The words "weight (s) and (or) measure (s)" shall be construed to mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices, except that the term shall not be construed to include meters for the measurement of electricity, gas (natural or manufactured), or water when the same are operated in a public utility system. Such electricity, gas, and water meters are hereby specifically excluded from the purview of this act, and none of the provisions of this act shall be construed to apply to such meters or to any appliances or accessories associated therewith . "Weights and measures."

(3) The words "sell" and "sale" shall be construed to mean barter and exchange. "Sell" and "sale."

(4) The term "sealer" shall be construed to mean the state sealer of weights and measures. "Sealer."

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"Chief sealer" and deputy sealer."

(5) The terms "chief sealer" and "deputy sealer" shall be construed to mean, respectively, the state chief sealer of weights and measures and the deputy sealer of weights and measures.

"Intrastate commerce."

(6) The term "intrastate commerce" shall be construed to mean any and all commerce or trade that is begun, carried on, and completed wholly within the limits of the state of Montana, and the phrase "introduced into intrastate commerce" shall be construed to define the time and place at which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

"Introducted into intrastate commerce."

"Commodity in package form."

(7) The term "commodity in package form" shall be construed to mean commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of any auxiliary shipping container enclosing packages that individually conform to the requirements of this act. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

"Consumer package" or "package of consumer commodity."

(8) A "consumer package" or "package of consumer commodity" shall be construed to mean a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

"Nonconsumer package" or "package of nonconsumer commodity."

(9) A "nonconsumer package" or "package of nonconsumer commodity" shall be construed to mean any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

Systems of weights and measures.

Section 2. **Systems of Weights and Measures.** The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes

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in the state of Montana. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National Bureau of Standards are recognized and shall govern weighing and measuring equipment and transactions in the state.

Secion 3. **Definitions of special units of measure.** The term "barrel" when used in connection with fermented liquor shall mean a unit of thirty-one (31) gallons. The term "ton" shall mean a unit of two thousand (2,000) pounds avoirdupois weight. The term "cord" when used in connection with wood intended for fuel purposes shall mean the amount of wood that is contained in a space of one hundred twenty-eight (128) cubic feet when the wood is ranked and well stowed.

"Barrel."

"Ton."

"Cord."

Section 4. **State standards of weight and measure.** Such weights and measures in conformity with the standards of the United States as have been supplied to the state by the Federal Government or otherwise obtained by Montana for use as state standards shall, when the same shall have been certified as being satisfactory for use as such by the National Bureau of Standards, be the state standards of weight and measure. The state standards shall be kept in a safe and suitable place in the office or laboratory of the State Division of Weights and Measures, they shall not be removed from the said office or laboratory except for repairs or for certification, and they shall be submitted at least once in ten years to the National Bureau of Standards for certification.

State standards of weight and measure.

Section 5. **Field standards and equipment.** In addition to the state standards provided for in section 4 of this act, there shall be supplied by the state such "field standards" and such equipment as may be found necessary to carry out the provisions of this act. The field standards shall be verified upon their initial receipt and at least once each year thereafter by comparison with the state standards.

Field standards and equipment.

Section 6. **State sealer, chief sealer and deputy sealers of weights and measures.** There shall be a state sealer of weights and measures. The commissioner of agriculture shall be, ex officio, the state sealer. There shall be a chief sealer of weights and measures and deputy sealers of weights and measures, and necessary

State sealer, chief sealer, and deputy sealers of weights and measures.

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technical and clerical personnel, who shall be appointed by the sealer, and who shall hold office during good behavior, and who shall collectively comprise the State Division of Weights and Measures, of which the chief sealer shall be the head.

General powers and duties of sealer.

Section 7. **General powers and duties of sealer.** The sealer shall have the custody of the state standards of weight and measure and of the other standards and equipment provided for by this act, and shall keep accurate records of the same. The sealer shall enforce the provisions of this act. He shall have and keep a general supervision over the weights and measures offered for sale, sold, or in use in the state.

Specific powers and duties of sealer: regulations.

Section 8. **Specific powers and duties of sealer: Regulations.** The sealer shall issue from time to time reasonable regulations for the enforcement of this act, which regulations shall have the force and effect of law. These regulations may include (1) schedules of fees for testing and certification, (2) standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form, (3) rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by sealers of weights and measures in the discharge of their official duties, (4) exemptions from the sealing or marking requirements of section 14 of this act with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question, and (5) rules governing the voluntary registration of servicemen and service agencies. These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in section 10 of this act, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (1) that are not accurate, (2) that are of such construction that they are faulty (that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly), or (3) that facilitate the perpetration of fraud. The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Bureau of Standards and published in National

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Bureau of Standards Handbook 44 and supplements thereto, or in any publication revising or superseding Handbook 44, shall be the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices of the state of Montana, except insofar as specifically modified, amended, or rejected by a regulation issued by the sealer. For the purposes of this act, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section. Other apparatus shall be deemed to be "incorrect."

Testing of state—supported institutions.

Section 9. **Same: Testing at state-supported institutions.** The sealer shall from time to time test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which monies are appropriated by the legislature, reporting his findings, in writing, to the supervisory board and to the executive officer of the institution concerned.

General testing.

Section 10. **Same: General Testing.** When not otherwise provided by law, the sealer shall have the power to inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. It shall be the duty of the sealer, within a twelve-month period, or less frequently if in accordance with a schedule issued by him, and as much oftener as he may deem necessary, to inspect and test, to ascertain if they are correct, all weights and measures commercially used (1) in determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure, or of count, or (2) in computing the basic charge or payment for services rendered on the basis of weight, measure, or of count: Provided, that with respect to single-service devices (that is, devices designed to be used commercially only once and to be then discarded) and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, tests may be made on representative samples of such devices; and the lots of which such samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples: And provided further, that any itinerant peddler or hawker, using weights and measures, shall register his name and address with the chief sealer of weights and

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measures, in order that his equipment can be tested in accordance with the provisions of this law.

Investigations.

Section 11. **Same: Investigations.** The sealer shall investigate complaints made to him concerning violations of the provisions of this act, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this act and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

Inspection of packages.

Section 12. **Same: Inspection of packages.** The sealer shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered, or exposed for sale or sold in accordance with law. When such packages or amounts of commodities are found not to contain the amounts represented, or are found to be kept, offered, or exposed for sale in violation of law, the sealer may order them off sale and may so mark or tag them as to show them to be illegal. In carrying out the provisions of this section, the sealer may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall (1) sell, or keep, offer, or expose for sale, in intrastate commerce, any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section unless and until such package or amount of commodity has been brought into full compliance with all legal requirements, or (2) dispose of any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section and that has not been brought into compliance with legal requirements, in any manner, except with the specific approval of the sealer.

Stop-use, stop-removal, and removal orders.

Section 13. **Same: Stop-use, stop-removal, and removal orders.** The sealer shall have the power to issue stop-use orders, stop-removal orders, and removal orders with respect to weights and measures being, or susceptible of

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being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts or commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the provisions of this act he deems it necessary or expedient to issue such orders, and no person shall use, remove from the premises specified, or fail to remove from the premises specified, any weight, measure, or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the authority of this section.

Disposition of correct and incorrect apparatus.

Section 14. **Same: Disposition of correct and incorrect apparatus.** The sealer shall approve for use, and seal or mark with appropriate devices, such weights and measures as he finds upon inspection and test to be "correct" as defined in section 8 of this act, and shall reject and mark or tag as "rejected" such weights and measures as he finds, upon inspection or test, to be "incorrect" as defined in section 8 of this act, but which in his best judgment are susceptible of satisfactory repair: Provided, that, such sealing or marking shall not be required with respect to such weights and measures as may be exempted therefrom by a regulation of the sealer issued under the authority of section 8 of this act. The sealer shall condemn, and may seize and destroy, weights and measures found to be incorrect that, in his best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the sealer if not corrected as required by section 17 of this act, or if used or disposed of contrary to the requirements of section 17 of this act.

Police powers; right of entry and stoppage.

Section 15. **Same: Police powers; right of entry and stoppage.** With respect to the enforcement of this act and any other acts dealing with weights and measures that he is or may be empowered to enforce, the sealer is hereby vested with special police powers, and is authorized to arrest, without formal warrant, any violator of the said acts, and to seize for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts of packages of commodity found to be used, retained, offered or exposed for sale or sold in violation of law. In the performance of his official duties, the sealer is authorized to enter and go into or upon, without formal

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warrant, any structure or premises, and to stop any person whatsoever and to require him to proceed, with or without any vehicle of which he may be in charge, to some place which the sealer may specify.

Powers and duties of chief sealer and deputy sealers.

Section 16. **Powers and duties of chief sealer and deputy sealers.** The powers and duties, given to and imposed upon the sealer by sections 9, 10, 11, 12, 13, 14, 15, and 37 of this act are hereby given to and imposed upon the chief sealer and deputy sealers also when acting under the instructions and at the direction of the state sealer.

Duty of owners of incorrect apparatus.

Section 17. **Duty of owners of incorrect apparatus.** Weights and measures that have been rejected under the authority of the sealer or of a deputy sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within thirty (30) days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially reexamined and found to be correct, or until specific writen permission for such use is issued by the rejecting authority, or until the rejection tag has been removed and the rejected device repaired and placed in service by a person duly registered to perform such acts under a regulation issued by the sealer for the registration of weights and measures servicemen and service agencies.

Method of sale of commodities: general.

Section 18. **Method of sale of commodities: general.** Commodities in liquid form shall be sold only liquid measure or by weight, and, except as otherwise provided in this act, commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count: Provided, that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold: And provided further, that the provisions of this section shall not apply (1) to commodities when sold for immediate consumption on the premises where sold, (2) to vegetables when sold by the

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head or bunch, (3) to commodities in containers standardized by a law of this state or by federal law, (4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (5) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (6) to unprocessed vegetable and animal fertilizer when sold by cubic measure. The sealer may issue such reasonable regulations as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest.

Packages: declarations of quantity and origin; variations; exemptions.

Section 19. **Same: packages: declarations of quantity and origin; variations; exemptions.** Except as otherwise provided in this act, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce, shall bear on the outside of the package such definite, plain, and conspicuous declarations of (1) the identity of the commodity in the package unless the same can easily be identified through the wrapper or container, (2) the net quantity of the contents in terms of weight, measure, or count, and (3) in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor, as may be prescribed by regulation issued by the director: Provided, that, in connection with the declaration required under clause (2), neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo", "giant", "full", and the like) that tends to exaggerate the amount of commodity in a package shall be used: And provided further, that under clause (2) the sealer shall, by regulation, establish (a) reasonable variations to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure, (b) exemptions as to small packages, and (c) exemptions as to commodities put up in variable weights or sizes

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for sale intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer.

Declarations of unit price on random packages.

Section 20. **Same: Declarations of unit price on random packages.** In addition to the declarations required by section 19 of this act, any commodity in package form, the package being one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

Misleading packages.

Section 21. **Same: Misleading packages.** No commodity in package form shall be so wrapped, nor shall it be in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the sealer.

Advertising packages for sale.

Section 22. **Same: Advertising packages for sale.** Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package: Provided, that, where the law or regulation requires a dual declaration of net quantity to appear on the package, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure (the declaration that is required to appear first and without parenthesis on the package) need appear in the advertisement: And provided further, that there shall not be included as part of the declaration required under this section such qualifying terms as "when packed", "minimum", "not less than", or any other terms of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo", "giant", "full", and the like) that tends to exaggerate the amount of commodity in the package.

Sale by net weight.

Section 23. **Sale by net weight.** The word "weight" as used in this act in connection with any commodity shall

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mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed, and all contracts concerning commodities shall be so construed.

Misrepresentation of price.

Section 24. **Misrepresentation of price.** Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half (½) the height and width of the numerals representing the whole cents.

Meat, poultry, and sea food.

Section 25. **Meat, poultry, and seafood.** Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold as a unit for consumption elsewhere than on the premises where sold, all meat, meat products, poultry (whole or parts), and all seafood except shellfish, offered or exposed for sale or sold as food shall be offered or exposed for sale and sold by weight. When meat, poultry, or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by weight, and the quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

Bread.

Section 26. **Bread.** Each loaf of bread and each unit of a twin or multiple loaf of bread or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half (½) pound, one (1) pound, one and one-half (1½) pounds, or a multiple of one (1) pound, avoirdupois weight, within reasonable variations or tolerances that shall be promulgated by regulation by the sealer: Provided, that the provisions of this section shall not apply to biscuits, buns, or rolls weighing eight (8) ounces or less, or to "stale

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bread'' sold and expressly represented at the time of sale as such, and that the marking provisions of section 19 shall not apply to unwrapped loaves of bread.

Butter, oleomargarine, and margarine.

Section 27. **Butter, oleomargarine, and margarine.** Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight, and only in units of one-fourth (¼) pound, one-half (½) pound, one (1) pound, or multiples of one (1) pound, avoirdupois weight.

Fluid dairy products.

Section 28. **Fluid dairy products.** All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream, and buttermilk, shall be packaged for retail sale only in units of one (1) gill, one-half (½) liquid pint, ten (10) fluid ounces, one (1) liquid pint, one (1) liquid quart, one-half (½) gallon, one (1) gallon, one and one-half (1½) gallons, two (2) gallons, two and one-half (2½) gallons, or multiples of one (1) gallon: Provided, that packages in units of less than one (1) gill shall be permitted.

Flour, corn meal, and hominy grits.

Section 29. **Flour, corn meal, and hominy grits.** When in package form, and when packed, kept, offered, or exposed for sale or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, and hominy grits shall be packaged only in units of two (2), five (5), ten (10), twenty-five (25), fifty (50), or one hundred (100) pounds, avoirdupois weight: Provided, that packages in units of less than two (2) pounds or more than one hundred (100) pounds shall be permitted.

Bulk deliveries sold in terms of weight and delivered by vehicle.

Section 30. **Bulk deliveries sold in terms of weight and delivered by vehicle.** When a vehicle delivers to an individual purchaser a commodity in bulk, and the commodity is sold in terms of weight units, the delivery shall be accompanied by a duplicate delivery ticket with the following information clearly stated, in ink or by means of other indelible marking equipment and, in clarity, equal to type or printing, (1) the name and address of the vendor, (2) the name and address of the purchaser, and (3) the net weight of the delivery expressed in pounds, and, if the net weight is derived from determinations of gross and tare weights, such gross and tare weights also shall be stated in terms of pounds. One of these tickets shall

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be retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of the commodity, or shall be surrendered, on demand, to the sealer, or the chief sealer or deputy sealer, who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser: Provided, that, if the purchaser, himself, carries away his purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to him.

Furnace and stove oil.

Section 31. **Furnace and stove oil.** All furnace and stove oil shall be sold by liquid measure or by net weight in accordance with the provisions of section 18 of this act. In the case of each delivery of such liquid fuel not in package form and in an amount greater than ten (10) gallons in the case of sale by liquid measure or one hundred (100) pounds in the case of sale by weight, there shall be rendered to the purchaser, either (a) at the time of delivery or (b) within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink or by means of other indelible marking equipment and, in clarity, equal to type or printing, there shall be clearly stated (1) the name and address of the vendor, (2) the name and address of the purchaser, (3) the identity of the type of fuel comprising the delivery, (4) the unit price (that is, the price per gallon or per pound, as the case may be) of the fuel delivered, (5) in the case of sale by liquid measure, the liquid volume of the delivery, together with any meter readings from which such liquid volume has been computed, expressed in terms of the gallon and its binary or decimal subdivisions, and (6) in the case of sale by weight, the net weight of the delivery, together with any weighing scale readings from which such net weight has been computed, expressed in terms of tons or pounds avoirdupois.

Berries and small fruits.

Section 32. **Berries and small fruits.** Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of one-half (½) dry pint, one (1) dry pint, or one (1) dry quart: Provided, that the marking provisions of section 19 of this act shall not apply to such containers.

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Construction of contracts.

Section 33. **Construction of contracts.** Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed or defined in sections 2 and 3 of this act, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.

Hindering or obstructing officer; penalties.

Section 34. **Hindering or obstructing officer; penalties.** Any person who shall hinder or obstruct in any way the sealer, the chief sealer, or any one of the deputy sealers, in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars ($20.00) or more than two hundred dollars $200.00), or by imprisonment for not more than three (3) months, or by both such fine and imprisonment.

Impersonation of officer; penalties.

Section 35. **Impersonation of officer; penalties.** Any person who shall impersonate in any way the sealer, the chief sealer, or any one of the deputy sealers, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

Offenses and penalties.

Section 36. **Offenses and penalties.** Any person who, by himself, or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in subparagraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than twenty dollars ($20.00) or more than two hundred dollars ($200.00), or by imprisonment for not more than three (3) months, or by both such fine and imprisonment. Upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

(1) Use or have in possession for the purpose of using for any commercial purpose specified in section 10, sell, offer, or expose for sale or hire, or have in possession for

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the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

(2) Use, or have in possession for the purpose of current use for any commercial purpose specified in section 10, a weight or measure that does not bear a seal or mark such as is specified in section 14, unless such weight or measure has been exempted from testing by the provisions of section 10 or by a regulation of the sealer issued under the authority of section 8, or unless the device has been placed in service as provided by a regulation of the sealer issued under the authority of section 8 of this act: Provided, that, any person or persons making use of weighing or measuring devices subject to this act must report to the sealer of weights and measures or his deputies, in writing, the number and location of said weighing or measuring device and must promptly report the installation of any new weighing or measuring device.

(3) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.

(4) Remove from any weight or measure, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.

(5) Sell, or offer or expose for sale, less than the quantity he represents of any commodity, thing, or service.

(6) Take more than the quantity he represents of any commodity, thing, or service, when, as buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined.

(7) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or regulation.

(8) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.

(9) Violate any provision of this act or of the regu-

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lations promulgated under the provisions of this act for which a specific penalty has not been prescribed.

Injunction.

Section 37. **Injunction.** The sealer is authorized to apply to any court of competent jurisdiction for, and such court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating any provision of this act.

Presumptive evidence.

Section 38. **Presumptive evidence.** For the purposes of this act, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand, or vehicle in which or from which is shown that buying or selling is commonly carried on, shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand, or vehicle.

Validity of prosecutions.

Section 39. **Validity of prosecutions.** Prosecutions for violation of any provision of this act are declared to be valid and proper, notwithstanding the existence of any other valid general or specific act of this state dealing with matters that may be the same as or similar to those covered by this act.

Separability provision.

Section 40. **Separability provision.** If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Repeal of conflicting laws.

Section 41. **Repeal of conflicting laws.** All laws and parts of laws contrary to or inconsistent with the provisions of this act are hereby repealed.

"Weights and Measures Act of Montana."

Section 42. **Citation.** This act may be cited as the "Weights and Measures Act of Montana."

Repealing clause.

Section 43. Sections 90-101 through 90-119, 90-120 through 90-129, 90-131, 90-133 through 90-143, 90-145 through 90-152, 90-601 through 90-620, 3-202, 3-2432, 3-2433, 11-958, 50-603, 50-408, 50-409, R.C.M., 1947, are repealed.

Approved: February 24, 1969.

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CHAPTER 100

An Act Providing for the Conservation and Development of Water and Land Resources of Montana Through the Creation of Conservancy Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Conservation and development of water and land resources through conservancy districts.

Section 1. To provide for the conservation and development of the water and land resources of the state of Montana, conserve Montana's water for utilization for beneficial purposes within the state, and provide for the greatest beneficial use of water within this state, the organization of conservancy districts and the construction of works as defined by the act are a public use and will:

(1) be essentially for the public benefit and advantage of the people of Montana;

(2) benefit all industries of the state;

(3) encourage economic growth;

(4) indirectly benefit the state by increasing property valuations;

(5) directly benefit municipalities by providing adequate supplies of water for domestic uses;

(6) directly benefit lands irrigated or drained by works constructed;

(7) directly benefit lands now irrigated by stabilizing the flow of water in streams and by increasing the flow and return flow of water to those streams;

(8) enhance fish and wildlife habitat;

(9) improve recreational facilities; and

(10) promote the comfort, safety, and welfare of the people of Montana.

Purpose of act.

Section 2. The purpose of this act is to enable the formation of conservancy districts, comprised of area in one or more counties to promote the following purposes:

(1) prevent and control floods, erosion and sedimentation;

(2) provide for regulation of stream flows and lake levels;

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(3) improve drainage and to reclaim wet or overflowed lands;

(4) promote recreation;

(5) develop and conserve water resources and related lands, forest, fish and wildlife resources;

(6) further provide for the conservation, development, and utilization of land and water for beneficial uses including, but not limited to, domestic water supply, fish, industrial water supply, irrigation, livestock water supply, municipal water supply, recreation and wildlife.

Section 3. As used in this act, unless the context clearly indicates otherwise:

"District." (1) "District" means a conservancy district, which is a public corporation and a political subdivision of the state.

"Directors." (2) "Directors" means the board of directors of a conservancy district.

"Elector." (3) "Elector" means a person qualified to vote under Section 23 of this act.

"Court." (4) "Court" means the district court of the judicial district in which the largest portion of the taxable valuation of real property of the proposed district is located and within the county in which the largest portion of the taxable valuation of real property of the proposed district is located within the judicial district.

"Person." (5) "Person" means a natural person; firm; partnership; cooperative; association; public or private corporation, including the state of Montana or the United States; foundation; state agency or institution; county; municipality; district or other political subdivision of the state; federal agency or bureau; or any other legal entity.

"Water board." (6) "Water board" means the State Water Resources Board.

"Board of supervisors." (7) "Board of supervisors" means the board of supervisors of the soil and water conservation district in which the largest portion of the taxable valuation of real property of the proposed district is located.

"Works." (8) "Works" means all property, rights, easements, franchises, and other facilities including, but not limited

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to, land, reservoirs, dams, canals, dikes, ditches, pumping units, mains, pipelines, waterworks systems, recreational facilities, facilities for fish and wildlife, and facilities to control and correct pollution.

(9) "Cost of works" means the cost of construction, acquisition, improvement, extension and development of works, including financing charges, interest and professional services. "Cost of works."

(10) "Applicants" means any persons residing within the boundaries of the proposed district making a request for a study of the feasibility of forming a conservancy district. "Applicants."

(11) "Notice" means publication at least once each week for three (3) consecutive weeks in a newspaper published in each county, or if no newspaper is published in a county, a newspaper of general circulation in the county, or counties, in which a district is or will be located. The last published notice shall appear not less than five (5) days prior to any hearing or election held under this act. "Notice."

(12) "Owners" are the person or persons who appear as owners of record of the legal title to real property according to the county records whether such title is held beneficially or in a fiduciary capacity, except that a person holding a title for purposes of security is not an owner nor shall he affect the previous title for purposes of this act. "Owners."

(13) "Taxable valuation" shall mean the valuation determined according to section 84-302, R.C.M., 1947, and does not mean assessed valuation. "Taxable valuation."

Section 4. (1) To request a preliminary survey for a proposed conservancy district, the applicants shall present a written *request to the water board.* Request for preliminary survey.

(2) The request shall:

(a) generally describe the proposed boundaries of the district;

(b) specify the purpose or purposes of the district;

(c) list the works contemplated.

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(3) The water board may initiate a preliminary survey without any prior request.

Duties of water board upon receipt of request.

Section 5. (1) Sooner than eleven (11) days after the request is received, the water board shall acknowledge the request.

(2) The water board shall itself, or through cooperating agencies, or together with cooperating agencies:

(a) consult with the board of supervisors and all persons who may participate in the proposed project;

(b) conduct a preliminary survey of the proposed district;

(c) estimate costs of works, maintenance, and operation;

(d) determine sources of financing;

(e) reach a tentative decision on the feasibility, desirability and compatability with the state water plan of the proposed district;

(f) adjust the boundaries of the proposed district to improve the feasibility, desirability or consistency with the state water plan;

(g) sooner than six (6) months after receipt of the request, send a report of the preliminary survey to the applicants, the board of supervisors, fish and game commission, state soil conservation committee, state board of health, and other affected state and federal resource agencies for their comments.

Hearings.

Section 6. (1) Upon receipt of the preliminary survey report the applicants, or any one of them, may request the water board to hold a hearing. The water board shall hold the hearing sooner than sixty-one (61) days after receipt of the request. Notice of the hearing shall be given in accordance with Section 3, subsection (11) of this act.

(2) If the water board itself initiated the preliminary survey, it may hold such a hearing without being requested to do so.

Feasibility study.

Section 7. After the hearing, the applicants, or any one of them, may request the water board to prepare a detailed feasibility study of the proposed district. If the

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water board concludes that the proposed district is feasible, desirable, and consistent with the state water plan, it shall prepare a feasibility report, and sooner than six (6) months after receipt of the request, send copies to the applicants, if any, the fish and game commission, state soil conservation committee, state board of health, and other affected state and federal water resource agencies. For good cause shown based upon the actual technical problems in completing the report, the water board may use necessary additional time to complete and distribute the report. The detailed feasibility report shall describe the proposed works and contain an estimate of the cost of the works, the means of financing, and the estimated costs of operation and maintenance. The water board may adjust the boundaries of the proposed district to improve the feasibility, desirability and consistency with the state water plan, and to exclude land which would receive no direct or indirect benefits from the proposed district.

Procedure for organization of district.

Section 8. If in the opinion of the water board the feasibility study shows that a district is feasible and consistent with the state water plan, the procedure for organization is:

(1) the water board shall file a petition requesting organization with the court;

(2) the petition shall:

(a) state the name of the proposed district;

(b) give a legal description of the boundaries of the proposed district, excluding therefrom lands which would receive no direct or indirect benefits from the proposed district;

(c) describe the purposes of the district;

(d) describe the works;

(e) indicate the estimated cost of works, means of financing, and estimated costs of operation and maintenance;

(f) list the taxable valuation of real property in the proposed district, which must be one hundred thousand dollars ($100,000) or more;

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(g) describe the means of repaying capital costs;

(h) propose the persons who should be represented and the number of directors.

(3) The petition shall be signed by owners of at least fifty-one percent (51%) of the land outside the limits of an incorporated municipality, and not fewer than five percent (5%) or one hundred (100), whichever is the lesser, of the persons who would qualify as electors within an incorporated municipality.

Petition for organization of district—hearing and procedure.

Section 9. (1) Upon receipt of a petition for organizing a district, the court shall give notice and hold a hearing on the petition. If the courts shall find that the prayer of the petition should be granted, it shall:

(a) make and file findings of fact specifying those lands that will be directly or indirectly benefitted by the proposed district, and exclude those lands which will not be so benefitted;

(b) make an order fixing the time and place of an organizing election;

(c) give notice of an election in the way provided in Section 3, subsection (11);

(d) provide for election judges and fix their compensation;

(e) fix the polling place or places as necessary;

(f) order the county clerk to provide poll books, ballots, poll lists and other necessary election supplies;

(g) provide for canvassing the results;

(h) declare the results;

(i) order and decree the district organized if the requisite number of eligible electors vote in favor of organization.

(2) In order for the district to be organized, fifty-one percent (51%) or more of the eligible electors must vote in the election, and a majority of those voting must vote in favor of organization.

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(3) This act shall not confer upon the court jurisdiction to hear, adjudicate, and settle questions concerning the priority of appropriation of water between districts and other persons. Jurisdiction to hear and determine priority of appropriation, and questions of right growing out of, or in any way connected with a priority of appropriation, are expressly excluded from this act and shall be determined as otherwise provided by the laws of Montana.

Records of creation of district—filing.

Section 10. Sooner than thirty-one (31) days after the district has been decreed organized, the clerk of the court shall transmit to the secretary of state, water board, and to the county clerk and recorder in each of the counties having lands in the district, copies of the election results, the decree of the court incorporating the district, and a description of the boundaries of the district. Copies of the same documents shall be filed in the office of the secretary of state in the same manner as articles of incorporation are required to be filed under the laws governing corporations. Copies shall also be filed in the office of the county clerk and recorder of each county in which a part of the district may be. The clerk and recorder of each county where the articles are filed and the secretary of state shall collect filing fees as provided by law.

Expenses of election.

Section 11. If organized, the district shall reimburse the county, or counties, for the expenses incurred in the organizing election.

Section 12. If a district is organized, the court shall:

Court order creating district—to contain.

(1) establish by court order the number of persons who shall comprise the directors, appoint persons who are electors within the district to membership on the board of directors, and fix their compensation. The number shall not be less than three (3) nor more than eleven (11) persons. In fixing the number and making the appointments the court shall consider the interests and purposes to be served by the district. Upon a verified petition filed by a majority of the directors and for good cause shown, the court may enlarge or reduce the membership of the directors, but not to exceed eleven (11) nor to be less than three (3);

(2) fix the terms of office so that approximately

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one-third (1/3) of the directors first appointed shall serve for one (1) year; approximately one-third (1/3) shall serve two (2) years; and the remainder shall serve three (3) years. All succeeding terms shall be three (3) years. Unless excused for good cause, a director who misses three (3) consecutive regular meetings has vacated his position;

(3) fill all vacancies on the board by appointment or reappointment;

(4) specify a date for the first annual meeting of the directors;

(5) specify the amount and form of a corporate surety bond which each member of the directors shall furnish at the expense of the district, conditioned upon his faithful performance of his duties as a director.

Directors—duties.

Section 13. (1) The directors shall select from among themselves a chairman, vice-chairman, secretary, and other necessary officers. The directors shall adopt bylaws and rules for the conduct of meetings. All official acts of the directors shall be entered in a book of minutes to be kept by the secretary.

(2) The directors shall establish times for regular meetings and may hold special meetings upon the call of the chairman or any two (2) members, and (except in case of emergency) upon at least three (3) days notice of the time, place, and purpose of the meeting.

Powers of directors.

Section 14. On behalf of the district, the directors may:

(1) adopt an official seal;

(2) sue and be sued;

(3) adopt rules to promote and encourage water recreation, including requirements concerning public access areas and facilities, and rules respecting the use of reservoirs and waters, picnic sites, and other recreational areas operated by the district. Rules adopted shall be filed with the secretary of directors and shall be available to any interested party upon reasonable request;

(4) enter private property for the purposes of making

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surveys, provided that just compensation for actual damages is made;

(5) provide for reimbursing of its members for actual expenses;

(6) appropriate water and initiate or participate in the adjudication of streams;

(7) acquire, undertake, construct, develop, improve, maintain, and operate works and all incidental facilities;

(8) acquire by purchase, exchange, gift, lease, grant, devise, or otherwise, lands, water, water rights, or rights-of-way as necessary for the execution of any authorized function of the district. Title to all property (including water rights) shall be in the name of the district;

(9) merge with other special districts as hereinafter provided;

(10) hold and dispose of property as necessary or convenient in the performance of the functions of the district;

(11) call upon the county attorney or attorney general for such legel services as the district may require, or in the discretion of the directors, employ private legal counsel;

(12) withhold the delivery of water upon which there are any defaults or delinquencies of payment, and otherwise dispose of that water while the default or delinquency continues;

(13 borrow money and incur indebtedness and issue bonds to finance works as provided by this act;

(14) refund bonded indebtedness incurred by the district as provided by this act;

(15) after a hearing held in accordance with Section 17 of this act, make assessments sufficient to meet the budgetary requirements for the coming year;

(16) contract for service, for water furnished, or for the sale of water with any person;

(17) fix and revise from time to time and collect rates, fees, and other charges for the services, facilities, or water furnished by the district to any person;

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(18) allocate or reallocate unused waters of the district;

(19) cooperate with, accept grants, loans, and other assistance from; act as agent for; and enter into agreements with any and all state or federal agencies, and exercise all necessary or convenient powers in connection therewith;

(20) enter into any obligation or contract with an agency of the federal government for the construction, operation, and maintenance of works; or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands under the provisions of the federal reclamation act and rules established under that act; or contract with an agency of the federal government for a water supply under any federal act providing for or permitting such a contract. However, the action must be approved by a majority of the electors voting at an election held as provided in Section 24. If a contract is made with an agency of the federal government, the directors may deposit bonds of the district with the United States at ninety percent (90%) of their par value, to secure the amount to be paid by the district to the United States under any contract, the interest on the bonds of the district to be applied as specified by the contract. If bonds of the district are deposited with the United States, it is the duty of the directors to make an assessment sufficient to meet all payments accruing under the terms of any contract with the United States;

(21) accept appointment of the district as fiscal agent for the United States or authorization of the district to make collections of moneys for or on behalf of the United States in connection with any federal reclamation projects and the district is authorized to act and to assume the duties and liabilities incident to this action. However, the action must be approved by a majority of the electors voting at an election held as provided in Section 24. The directors may do all things required by federal statutes and rules and require prompt payment of all charges as a prerequisite to water service;

(22) in addition to all voted indebtedness, borrow money as necessary but the amount shall not at any one time exceed five percent (5%) of the taxable valuation of real property in the district;

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(23) mortgage property owned by the district if the terms of the mortgage are not inconsistent with the provisions of a resolution authorizing the sale of bonds;

(24) use any surplus funds to purchase outstanding bonds;

(25) make contracts incidental to the performance of the district's functions, and employ and fix the compensation of employees, agents or consultants as are deemed necessary, including but not limited to, a manager, attorneys, accountants, engineers, construction and financial experts;

(26) cooperate with soil and water conservation districts to obtain agreements to carry out soil conservation measures and proper farm plans from owners of lands situated in the drainage area above each retention reservoir to be installed with federal assistance.

Participation in federal programs.

Section 15. A district organized under this act, by itself or in conjunction with others, as a sponsoring organization to participate in all federal programs including, but not limited to, the Watershed Protection and Flood Prevention Act of 1954 (68 Stat. 666), the Federal Water Project Recreation Act of 1965 (79 Stat. 213), the Federal Reclamation Act of 1902 (32 Stat. 388), and amendments to those acts.

Assessments for operation.

Section 16. (1) To the extent that anticipated revenues from rates, fees, and other charges fixed pursuant to Section 14, subsection (17) will not be sufficient to meet the district's anticipated obligations for annual operation, maintenance, and replacement or depreciation of works, or for payment of the interest and principal on bonded indebtedness, the directors may make an assessment of not more than two (2) mills on all taxable real property in the district for the purpose of fully meeting such obligations.

(2) In addition to the assessment authorized by subsection (1), the directors may annually make an assessment of up to three (3) mills on the taxable real property in the district to pay interest and principal on bonded indebtedness.

(3) The assessments are a lien upon each lot or parcel of land within the district to the extent of the assessment on each.

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(4) All assessments have the same force and effect as other liens for taxes and their collection shall be enforced in the way provided for enforcement of liens for county taxes. Assessments, if not paid, become delinquent at the same time as county taxes.

(5) Except as provided in Section 29, approval of the electors is not required for the making of these assessments.

Public budget hearing.

Section 17. (1) The directors shall, prior to the first Monday in May of each year, give notice as provided in Section 3, subsection (11) of this act of the intention to hold a public budget hearing. The notice shall include the date, time, place, and general agenda.

(2) At the hearing, the directors shall:

(a) review the present budget;

(b) present the budget for the next year;

(c) hear and consider protests from any elector;

(d) adopt the budget for the next year;

(e) set the assessment for the next year.

Section 18. (1) Before the second Monday in July of each year, the directors shall provide the county assessor and treasurer with:

(a) the budget for the current fiscal year;

(b) a statement of the amount of special assessments to be collected for the districts;

(c) a listing of all real property within the district.

(2) If the district is located in more than one (1) county, the directors shall provide this information to each of the county assessors and treasurers.

Collection and disposition of special assessments.

Section 19. (1) The treasurer of each county in which the district is located shall collect special assessments at the same time and in the same way as county taxes.

(2) If the district is located in more than one (1) county, all assessments collected shall be deposited with the treasurer of the county in which the assessments were collected.

(3) The directors shall direct the county treasurer to

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invest any surplus district funds in savings or time deposits in a state or national bank insured by the Federal Deposit Insurance Corporation or in direct obligations of the United States government payable within one hundred eighty (180) days from the time of investment. All interest collected on the deposits or investments shall be credited to the fund from which the money was withdrawn. However, five percent (5%) of the interest shall be deposited in the general fund of the county.

Right of eminent domain.

Section 20. The district may exercise the right of eminent domain in the manner provided by the law to take private property for public use, with just compensation, where the taking is necessary for the purposes of the district. Water rights as such shall not be subject to such taking, but may be taken as an incident to the condemnation of land to which such rights are appurtenant, where the taking of the land is the principal purpose of the condemnation.

Annual report.

Section 21. Before August 1 of each year, the directors shall send a written report of their activities during the previous fiscal year to the court and to the water board. Reports shall be in the form, and contain the information, prescribed by the water board.

Section 22. At least once each year the state examiner shall examine the financial records of each district and file a report of the examination with the water board and court. The state examiner shall collect a fee for the examination equal to that charged irrigation districts.

Qualifications of electors.

Section 23. (1) Only persons who are taxpayers upon and owners of real property located within the district and whose names appear upon the last completed assessment roll of some county within the district for state, county and school district taxes are electors and shall be entitled to vote in elections, provided that:

(a) an elector need not reside within the district in order to vote;

(b) where a corporation owns taxable real property within the boundaries of the conservancy district, the authorized agent of such corporation shall be entitled to cast a vote on behalf of the corporation;

(c) where land is under contract of sale to a purchaser

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and the contract is recorded, only the purchaser shall have the right to vote;

(d) guardians, executors, administrators, and trustees of real property within the district, shall be entitled to cast the vote for the owner of the land.

(2) When voting, an agent of a corporation or of co-owners, or a guardian, executor, administrator, trustee, or purchaser under contract of sale, may be required to show his authority by the judges of the election.

Election procedures.

Section 24. Election procedures after organization are:

(1) The directors shall designate the polling places, at least one (1) in each county, and hours when the polls will be open;

(2) Notice shall be published of the location of polling places and hours when the polls are open as provided in Section 3, subsection (11) of this act;

(3) The directors shall appoint three (3) judges for each polling place and fix their compensation;

(4) The judges shall appoint one (1) of their number as clerk of the election;

(5) The clerks and recorders of the counties in which the election is to be held shall supply poll lists, registers, ballots, and other necessary election supplies;

(6) The judges shall cause the ballots to be counted and certify the results to the directors;

(7) The directors shall canvass the returns;

(8) The directors shall reimburse the counties for actual expenses incurred in the election.

Challenge of electors.

Section 25. An elector may challenge any person who claims the right to vote. Before voting, any person challenged must take and sign the following oath or affirmation administered by an election judge:

"I . . . . (name) . . . . solemnly swear (or affirm) that I am an elector of the district and have not voted today."

False subscription to the oath or affirmation is perjury and punishable as such.

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Bonds.

Section 26. A district may issue bonds payable from revenues, assessments, or both, or the district may use other financing as provided by this act for the cost of works. Bonds issued shall be for a maximum term of not to exceed forty (40) years and a maximum rate of interest not more than six percent (6%). Bonds for more than one purpose may be sold as a single issue.

Amount of bond issue—determination.

Section 27. In determining the amount of bonds to be issued, the directors may include:

(1) all costs of works;

(2) all costs and estimated costs of issuance of the bonds;

(3) interest which they estimate will accrue on money borrowed during the construction period and for six (6) months after the period.

Bond issue—procedure.

Section 28. When the directors find it necessary to issue bonds, the directors shall:

(1) pass a resolution which includes:

(a) the purpose or purposes for which the bonds will be issued;

(b) the maximum amount and term of the bonds;

(c) the maximum interest rate the bonds will bear;

(d) whether the bonds will be repaid from revenues, assessments, or both.

(2) give notice as provided in Section 3, subsection (11) of this act which shall include the resolution adopted by the directors, location of polling places, and hours when the polls will be open;

(3) hold an election as provided by Section 24 of this act.

Approval of bond issue.

Section 29. (1) For a bond issue to be approved, forty percent (40%) of the qualified electors must vote thereon, and sixty percent (60%) of those voting must approve the issue.

(2) Approval of the bond issue shall authorize the directors to make assessments as provided in Section 16 necessary to pay the principal and interest on bonds issued.

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(3) The directors shall enter the results of the election in their records.

(4) If otherwise fairly conducted, no irregularities or informalities shall invalidate the election.

(5) Bonds for more than one purpose may be submitted to the electors as a single proposition.

Issuance of bonds.

Section 30. If a bond issue is approved, the directors shall by resolution provide for the form and execution of the bonds and for issuance of all or any part of the bonds. After adequate notice that sealed proposals will be received, the directors may award the purchase of all or a part of the issue to the best bidder or bidders, and may sell at private sale any or all bonds not sold on bids.

The said bonds will be sold for not less than their par value with accrued interest to date of delivery, and all bidders must state the lowest rate of interest at which they will purchase the bonds at par. The board shall reserve the right to reject any and all bids and to sell the said bonds at private sale.

Exemption of bonds from taxation.

Section 31. Bonds issued under this act have the same force, value, and use as bonds issued by a municipality and are exempt from taxation as property within the state of Montana.

Bond certificates.

Section 32. Pending preparation of the bonds sold under this act, receipts or certificates may be issued to purchasers in the form, and with provisions, as determined by the directors. Bonds and interim receipts or certificates are fully negotiable as provided by the Uniform Commercial Code-Investment Securities.

Registration of bonds.

Section 33. (1) When duly executed, all bonds issued under this act shall be registered by the county treasurer of the county in which the largest portion of the taxable valuation of real property of the district is located. They shall be registered in a book provided for that purpose before being delivered to the purchaser.

(2) The registration shall show:

(a) the number and amount of each bond;

(b) the date of issue and date redeemable;

(c) the name of the purchaser;

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(d) the amount and due date of all payments required on the bonds.

(3) The directors shall provide the county treasurer with an unsigned and cancelled printed copy of each issue of bonds of the district. The copy shall be preserved in his office.

Proceeds from sales of bonds—disposition.

Section 34. (1) Proceeds from the sales of bonds shall be deposited with the county in which the largest portion of the taxable valuation of real property of the district is located.

(2) The county treasurer shall place the proceeds of the bond sale to the credit of the district. The proceeds shall be paid by the county treasurer on written order of the directors. Proceeds shall only be spent for the purposes for which the bonds were issued.

(3) The directors shall instruct the county treasurer to deposit any part of the proceeds which is not immediately needed for the purpose for which the bonds were issued in a saving or time deposit in a state or national bank insured by the Federal Deposit Insurance Corporation or to invest in direct obligations of the United States government. The obligations shall be payable within not to exceed one hundred eighty (180) days from the time of deposit or investment.

Refunding bonds.

Section 35. (1) Refunding bonds may be issued in the same way as any other bonds authorized by this act.

(2) All bonds, original issue or refunding issue, shall be redeemable when one-half (½) of the term or ten (10) years of the term for which they were issued, whichever may be the less, has expired. Redemption may be made on any interest due date of any bond prior to its maturity after the bond shall be subject to redemption as herein provided. The right of redemption, as herein provided, must be stated on the face of each bond.

Bond retirement fund.

Section 36. Revenue, assessment, and other funds on hand, including reserves pledge for the payment and security of outstanding bonds may be deposited in a fund created for the retirement of bonds and may be invested and disbursed as provided by this act, to the extent consistent with the resolution authorizing the outstanding bonds.

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Revolving fund.

Section 37. (1) The directors by resolution may establish revolving funds to finance, on a reimbursable basis:

(a) construction, purchase, lease and operation of revenue producing works;

(b) contracts to provide services or facilities.

(2) Money in the revolving fund shall not be spent for any purposes other than those specified in the resolution. However, excess money may be transferred to any sinking and interest fund of the district.

(3) The county treasurer of the county having the largest portion of the taxable valuation of real property of the district shall maintain a separate account for each revolving fund of the district, and all money collected under the resolution shall be deposited with the county treasurer.

Consolidation of districts.

Section 38. (1) In case two (2) or more districts have been organized in a territory which, in the opinion of the directors of each of the districts, should constitute but one (1) district, the directors of the districts may petition the court for an order merging the districts into a single district. The petition shall be filed in the office of the clerk of the district court in and for that county which has the largest portion of taxable valuation of property within the districts sought to be included, as shown by the tax rolls of the respective counties. The petition shall set forth facts showing that the purposes of this act would be served by the merging of the districts, and that the merger would promote the economical execution of the purposes for which the districts were organized. A copy of the petition shall be filed with the water board.

(2) Upon the filing of the petition, the court shall by order fix a time and place of hearing; and the clerk shall give notice as specified in Section 3, subsection (11) of this act as well as by mail to the directors of the districts which would be merged. The notice shall contain the purpose, time, and the place of the hearing.

(3) Upon the hearing, should the court find that the averments of the petition are true and that the districts, or any of them, could feasibly and profitably be merged, it shall order that the merger take place and the districts shall be merged into one (1) district and proceed as

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such. The court shall designate the corporate name of the district, and further proceedings shall be taken as provided for in this act. The court shall by order appoint the directors of the district, who shall thereafter have powers and be subject to rules as are provided for directors in districts created in the first instance.

(4) Instead of organizing a new district from the constituent districts, the court may, in its discretion, direct that one (1) or more of the districts described in the petition be included in another of the districts, which other shall continue under its original corporate name and organization; or the court may direct that the district or districts so absorbed shall be represented on the directors of the original districts, designating what members of the directors of the original district shall be retired from the new board, and what members representing the included district or districts shall take their places.

(5) If the court receives a petition opposing the merger, signed by a majority of the electors of any of the concerned districts, the court shall not grant the order and shall dismiss the petition.

(6) Upon merger or inclusion, existing obligations shall remain exclusively with those who bore them prior to the merger or inclusion, except with the written consent, given prior to the merger or inclusion, of those who did not bear the obligations.

Annexation of real property to district—procedure.

Section 39. To annex real property to the district, the procedure is:

(1) The directors shall petition the court.

(2) The petition shall:

(a) give a general description of the real property to be annexed sufficient to enable a person to determine if his property is in the proposed annexation;

(b) describe the benefits to accure to the real property as a result of the annexation;

(3) The court shall:

(a) give notice and hold a hearing on the petition;

(b) upon good cause shown, order or deny the annexation.

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Annexed property —exemption.

Section 40. Real property annexed to a district shall not incur any liens by reason of bonds issued before annexation unless agreed to by the owners of the annexed property, in writing, prior to annexation.

Exclusion procedure.

Section 41. Any territory included within any district formed under the provisions of this act, and not benefited in any manner by such district, or its inclusion therein, may be excluded therefrom.

The procedure for exclusion is:

(1) A petition for exclusion shall be initiated by either the directors or the owner or owners of the land sought to be excluded.

(2) The petition shall give a description of the territory sought to be excluded sufficient to enable a person to determine if his property is in the proposed exclusion and shall set forth that such territory is not benefited in any manner by the district or its continued inclusion therein, and shall request that such territory be excluded from the district.

(3) When owners of property initiate the petition for exclusion, the petition shall be filed with the secretary of the district and shall be accompanied by a deposit of one hundred dollars ($100) to meet the costs incident to the process of exclusion. The unexpended balance of the deposit shall be returned to the petitioner.

(4) Upon the filing of such petition with the secretary of the district, the secretary shall duly call a meeting of the directors to consider the petition. The directors shall approve or disapprove of the merits of the petition. The secretary shall then file the petition, together with a copy of the action of the directors, with the court.

(5) The court shall give notice, hold a hearing, and issue an order either granting or denying the petition.

Procedure for dissolution.

Section 42. (1) The procedure for dissolution of a district is:

(a) a resolution shall be passed by the directors requesting dissolution; or

(b) a petition signed by twenty percent (20%) of the electors representing ten percent (10%) of the taxable

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valuation of real property in the district shall be presented to the directors; or

(c) if the district or its directors have been inactive for (1) year or more, any elector may present a petition.

(2) The resolution or petition shall be presented to the court by the directors, or by the petitioners if the directors remain inactive.

(3) Not more than one (1) resolution or petition may be presented to the court in any twenty-four (24) month period, and no such petition may be presented during the first twenty-four (24) months after a district's initial organization.

Election for dissolution.

Section 43. (1) After receipt of petition or resolution for dissolution, the court shall order an election in the way provided by Section 24 of this act.

(2) For dissolution to be approved, a majority of the electors voting must favor dissolution.

Termination of district affairs.

Section 44. (1) In the event the vote is for dissolution, any qualified elector, or the board of directors of the district may, within the time fixed by the court, present a written plan for terminating the affairs of the district which shall include assignment of any water rights and works owned by the district.

(2) The plan may specify that the affairs of the district shall be terminated by the directors or by a receiver appointed by the court.

(3) On a day fixed by the court, the court shall consider the plan or plans and shall enter an order establishing a plan for the termination of the affairs.

(4) The court shall retain jurisdiction to modify the plan and shall supervise the termination.

Appointment of receiver.

Section 45. (1) If no plan is presented on or before the date set by the court, the court shall appoint a receiver to terminate the affairs of the district under the supervision of the court.

(2) Upon the appointment of any receiver all the authority of the directors shall cease. However, until dissolution, the receiver shall have authority to levy assessments for:

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(a) the payment of obligations of the district;

(b) the costs of termination.

(3) The directors, or if there is a receiver, then the receiver with the approval of the court, shall make assessments each year in an amount large enough to retire the obligations of the district.

(4) If a receiver has been appointed, he shall direct, under court supervision, the disposition of all assessments collected.

Order dissolving district.

Section 46. When it appears to the satisfaction of the court that:

(1) all obligations of the district have been discharged;

(2) all the costs of termination have been paid, the court shall enter an order dissolving the district. A certified copy of the order shall be recorded by the clerk of the court in all counties in which the district was situated and filed with the secretary of state.

Funds remaining after dissolution—disposition.

Section 47. All funds remaining after dissolution of a district shall be deposited in the general fund of the counties in which the district is located in proportion to the taxable value of property within the district in each county.

Electric energy excluded.

Section 48. No power to generate, distribute or sell electric energy.

Nothing in this act shall be construed to grant to the district the power to generate, distribute or sell electric energy.

Act not to affect powers of water board.

Section 49. The provisions of this act shall not be construed to, in any manner, abrogate or limit the rights, powers, duties and functions of the water board, state soil conservation committee, soil and water conservation districts, state board of health, or the fish and game commission; but shall be held to be supplementary thereto and in aid thereof.

Severability clause.

Section 50. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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Section 51. This act shall be effective immediately upon passage and approval

Effective immediately.

Approved: February 24, 1969.

CHAPTER 101

An Act to Consolidate the Offices and Functions of the Budget Director and State Controller.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-1012, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"79-1012. **Governor chief budget officer.** The governor shall be the chief budget officer of the state. *The state controller shall be ex-officio budget director and it shall be his duty to carry out provisions of this chapter.*"

Governor chief budget officer.

Section 2. Section 82-3303, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"82-3303. **Divisions within department.** The department shall consist of the following divisions:

Divisions within department.

(1) Accounting

(2) Purchasing

(3) Architecture and engineering

(4) General services

(5) Budget

Each division shall be administered by a division head who shall be appointed by, and serve at the pleasure of the controller."

Section 3. Section 82-3306, Revised Codes of Montana, 1947, is amended to read as follows:

Amending clause.

"82-3306. **Supervision of mailing facilities—data processing, computer, duplicating, copying, and automatic typing facilities.**

Supervision of mailing and support facilities.

(1) The controller shall maintain and supervise any central mailing facilities for state agencies in the capitol area.

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(2) The controller shall establish regulations governing the procurement of data processing equipment, duplicating and copying equipment, and equipment generally prescribed for automatic typing. The regulations of the state controller shall be formulated with the advice of a committee consisting of a representative of the board of regents, a representative of the state highway commission, and two (2) members appointed by the other *two,* and one (1) of the appointed members shall have special knowledge or experience with data processing equipment and one (1) shall have special knowledge or experience with the other named office equipment. Within these regulations the controller shall supervise the procurement and location of the herein named equipment for all state agencies, other than the department of public instruction."

CHAPTER 102

An Act to Provide a Procedure for Voluntary Admission to the Warm Springs State Hospital Which Does Not Require Approval of the District Court Judge; Providing for a Sixty-Day Compulsory Period of Detention Authorizing Earlier Release or Discharge; and Providing that Proceedings for Judicial Commitment Need Not Be Commenced Unless There Is a Request in Writing for the Patient's Release After the Sixty-Day Compulsory Detention; Repealing Section 38-406, R.C.M. 1947, and Repealing Section 38-410, R.C.M. 1947, Which Has Been Superseded by Title 80, Chapter 16, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act unless the context indicates otherwise: (1) "Mental illness" means a psychiatric or other disease which substantially impairs mental health.

"Mental illness."

(2) "Patient" means a person admitted or committed to the Warm Springs state hospital for observation, diagnosis, care or treatment.

"Patient."

(3) "Prospective patient" means a person whose hospitalization is sought under the provisions of this act.

"Prospective patient."

(4) "Hospital" means the Warm Springs state hospital.

"Hospital."

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(5) "Superintendent" means the superintendent of Warm Springs state hospital. "Superintendent."

Section 2. (1) Subject to the availability of suitable accommodations, the superintendent shall admit to the hospital a person who is mentally ill or who has symptoms of mental illness for whom voluntary application is made in accordance with subsection (2) of this section. Admission of mentally ill.

(2) An application for voluntary admission to the hospital shall: Application.

(a) Be on forms prescribed by the hospital and furnished by the hospital to the county attorney;

(b) Be signed before two witnesses by the prospective patient, or in the case of a minor, by his parent or guardian;

(c) Be certified by a licensed physician who has personally examined the prospective patient and believes he is mentally ill or has symptoms of mental illness or is in need of psychiatric evaluation and treatment; and

(d) Contain a statement by the prospective patient, or his parent or guardian that, unless earlier released on convalescent status or discharged, the prospective patient will remain in the hospital for diagnosis and treatment for at least sixty (60) days.

(3) If in the opinion of the superintendent detention of the patient for the entire sixty-day period is unnecessary, the superintendent may release or discharge the patient. Discharge in less than 60 days.

(4) Proceedings for judicial commitment shall not be commenced with respect to a person admitted on voluntary application unless after the sixty (60) day period of compulsory detention the patient requests his release in writing or whose release is requested in writing by his parent, guardian, spouse, or next of kin. Upon receipt of such a request, the patient shall be released within five (5) days after the request is received unless the superintendent files a petition with the district court of the third judicial district in the county of Deer Lodge certifying that in his opinion the release of the patient would be unsafe for the patient or others, or that the patient is in need of care and treatment in the hospital and because of his illness lacks Proceedings for judicial commitment.

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sufficient insight or capacity to make responsible decisions with respect to his hospitalization.

Information of patients.

(5) The superintendent of the hospital shall inform patients of their right to release as provided in this section.

Costs of commitment.

(6) The costs of commitment proceedings under this section shall be paid by the county of the patient's residence. When the proceedings are completed, the clerk of the district court for the county of Deer Lodge shall send all papers relating to the proceedings to the clerk of the district court of the county of the patient's residence.

Transportation costs.

(7) The costs of transportation to the hospital under this section shall be provided by the patient, his parents, guardian, or the welfare department of the county of the patient's residence.

Repealing clause.

Section 3. Sections 38-406 and 38-410, R.C.M. 1947, are repealed.

Approved: February 24, 1969.

CHAPTER 103

An Act to Amend Section 75-3914, R.C.M. 1947, Relating to the Percentage of Electors Required to Authorize a School District Bond Issue; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-3914, R.C.M. 1947, is amended to read as follows:

Percentage of electors required to authorize bond issue.

"75-3914. (1224.14) **Percentage of electors required to authorize bond issue.** Whenever the question of issuing bonds for any purpose is submitted to the qualified electors of a school district at either a general or special school election *if forty (40) per centum of the qualified electors entitled to vote on such question at such election vote thereon and a majority of such votes shall be cast in favor of such proposition then said proposition shall be deemed to have been approved and adopted; provided, moreover, that if less than forty (40) per centum, but more than thirty (30) per centum of such qualified*

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electors vote on such question at such election and sixty (60) per centum or more of such votes shall be cast in favor of such proposition, then such proposition shall be deemed to have been approved and adopted, otherwise such question shall be deemed to have been rejected."

Section 2. This act shall be effective upon its passage and approval. Effective immediately.

Approved: February 24, 1969.

CHAPTER 104

An Act Providing that It Is in the Interest of Public Health that In-Hospital Medical Staff Committees Have Access to Information Relating to Treatment of Patients to Evaluate the Care and Treatment for Research Purposes and to Reduce Morbidity or Mortality and to Obtain Statistics; Providing that Employees of Hospitals May Furnish Such Information to the In-Hospital Medical Staff Committees; and that Such Information Shall Be Confidential and Privileged, and that All Proceedings of Such Committees Shall Be Confidential and Privileged; that In-Hospital Staff Committees Shall Publish Information Only for Purposes of Evaluating Medical Care and Treatment or for Statistical Purposes; that Committees nor Any of Members of Committees Shall Not Disclose the Identity of any Patients Whose Records Have Been Studied in Any Report or Publication of Findings or Conclusions of Committees, and that the Committees and their Employees Shall Protect the Identity of Patients Whose Conditions are Studied by the Committees; that All Data Shall Be Confidential and Not Admissible into Evidence in Any Judicial Proceedings, But that the Act Shall Not Affect the Admissibility in Evidence of Records Dealing with a Patient's Hospital Care and Treatment; Defining Data for the Purposes of this Act; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is in the interest of public health and patient medical care that in-hospital medical staff committees have access to the records, information, and other data relating to the condition and treatment of patients In-hospital medical staff committees shall have access to information relating to treatment of patients.

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in such hospital, to study and evaluate for the purpose of evaluating matters relating to the care and treatment of such patients for research purposes and for the purpose of reducing morbidity or mortality and obtaining statistics and information relating to the prevention and treatment of diseases, illnesses and injuries. To carry out such purposes, any hospital, its agents and employees may provide medical records, information or other data relating to the condition and treatment of any patient in said hospital to any in-hospital medical staff committee. All such records, data and information shall be confidential and privileged to said committee and the members thereof, as though such hospital patients were the patients of the members of such committee. All proceedings and in-hospital records and reports of such medical staff committees shall be confidential and privileged.

Use of information.

Section 2. Such in-hospital medical staff committees shall use or publish information from such material only for the purpose of evaluating matters of medical care, therapy and treatment for research and statistical purposes. Neither such in-hospital medical staff committee nor the members, agents or employees thereof shall disclose the name or identity of any patient whose records have been studied in any report or publication of findings and conclusions of such committee, but such in-hospital medical staff committee, its members, agents, or employees shall protect the identity of any patient whose condition or treatment has been studied and shall not disclose or reveal the name of any such in-hospital patient.

Confidentialness of information.

Section 3. All data shall be confidential and shall not be admissible in evidence in any judicial proceeding, but this section shall not affect the admissibility in evidence of records dealing with the patient's hospital care and treatment.

"Data."

Section 4. As used in this act, data means written reports, notes or records of tissue committees or other medical staff committees in connection with the professional training, supervision or discipline of the medical staff of hospitals.

Effective immediately.

Section 5. This act shall become effective upon its passage and approval.

Approved: February 24, 1969.

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CHAPTER 105

An Act Providing that All Authorized Carriers Within the State May Lease Power Equipment for the Purpose of Performing Transportation Movements, Providing Further that the Leasing of Such Power Units Must Be in Writing and Effective Only upon Specific Approval of the Board, Setting Forth the Provisions Required in the Lease, Providing that a Copy of the Lease, Approved by the Board, Be Maintained in Each Leased Vehicle, Providing for Proper Decals on Each Leased Vehicle, Leasing of Power Units by an Authorized Carrier to a Noncertified Carrier Prohibited.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. 8-103.1. **Leasing of power equipment.** All Class A, B and C carriers subject to the jurisdiction of the Board of Railroad Commissioners may lease power equipment for the purpose of performing transportation movements within the state of Montana. The leasing of such power units must be in writing and effective only upon specific approval of the board. Movement of such leased units without prior approval of the board is prohibited.

Leasing of power equipment.

All leases must contain (1) the full names and addresses of negotiating parties, (2) a complete description of each vehicle involved, (3) provision that the sole possession, responsibility, control and direction of each vehicle and its driver resides with the lessee for the entire term of the lease, (4) provision that the lessee assumes full responsibility for all regulatory fees, (5) amount of compensation to be paid for use of the vehicle while under the lease and the method by which such compensation is determined, (6) the renewal conditions of the lease, if any, and (7) the term length of the lease.

Leases to contain.

A copy of the lease, certified by the Board, must be maintained in each leased vehicle at all times.

Each power unit so leased must display in a conspicuous place on both sides of such vehicle the identity and address of the lessor, and lessee, and the certificate number under which the power unit is operating. The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited.

Markings or power unit.

Approved: February 24, 1969.

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CHAPTER 106

An Act Providing for Authorized Common Carriers to Enter into Interchange Agreements with Other Authorized Common Carriers, Providing for Joint Applications for Such Agreements, Providing that the Interchange Must Take Place at a Fixed Terminal Where the Carriers' Routes Intersect, Providing Further for Shipping Data to Be in the Possession of the Operator of the Interchanged Equipment, Interchange Agreements Between Contract Carriers Prohibited.

Be it enacted by the Legislative Assembly of the State of Montana:

Interchange of equipment.

Section 1. 8-103.2. **Interchange of equipment.** Common carriers authorized by the board may enter into interchange agreements with other authorized common carriers providing for the interchange of equipment. Such agreements must be joint applications made to the board by the carriers affected. To be approved by the board the interchange must take place at a fixed terminal where the carriers' routes intersect. Manifests, waybills or agreements and all shipping data must be in the possession of the operator of the interchanged equipment. When an interchange has been authorized such equipment shall be operated only by the certificate holder over whose route such equipment is being operated. Interchange agreements between contract carriers, Class C, is prohibited.

Approved: February 24, 1969.

CHAPTER 107

An Act Providing That Authorized Carriers Within the State May Lease Operating Certificates, or Any Integral Segment Thereof, Upon Board Approval; Providing That the Contract or Lease Must Be in Writing and Specifying the Provisions Contained Therein; Providing That Transportation Movements Under the Certificate Be Prohibited Until Approved by the Board in Writing. Transportation During the Term of the Contract or Lease to be Performed by the Entity Contracting for or Leasing Certificate; Transportation During the Term of the Contract or Lease by the Owner, Lessor, Is Prohibited.

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Be it enacted by the Legislative Assembly of the State of Montana:

Lease of Montana railroad commission certificate.

Section 1. 8-103.3. **Lease of Montana Railroad Commission Certificate.** An authorized carrier operating within the state of Montana may lease its certificate, or any integral segment thereof, to another carrier only by approval of the board. The contract or lease, under which the certificate is leased, must be in writing and approved by the board prior to any operation under the certificate. The contract or lease must specify: (a) the period for which a certificate is to be leased, which shall not be less than (30) days; (b) the compensation to be paid; (c) the time or date upon which the lease will commence and terminate; (d) and the signatures of the parties thereto. Operation under the certificate is prohibited until approved by the board in writing. During the period of the contract or lease transportation movements under the contract or lease must be performed by the entity contracting for or leasing the certificate, or any integral segment thereof, while transportation movements by the owner, lessor, is prohibited.

Approved: February 24, 1969.

CHAPTER 108

An Act Creating a State Archives in the Montana Historical Society; Providing for Appointment of a State Archivist to Preserve Noncurrent Records of Permanent Value to the State and to Assist State Officers and Agencies in Records Management.

Be it enacted by the Legislative Assembly of the State of Montana:

Creation of state archives in Montana historical society.

Section 1. The legislative assembly declares that it is the public policy of the state of Montana that noncurrent records of permanent value to the state should be preserved and protected; that the operations of state government should be made more efficient, more effective, and more economical through current records management; and that to the end that the people may receive maximum benefit from a knowledge of state affairs, the state should preserve its noncurrent records of permanent value for study and research.

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Section 2. There is a state archives in the Montana historical society for the preservation of noncurrent records of permanent value to the state and for records management. The director of the Montana historical society shall appoint a state archivist who serves at the pleasure of the director, define his duties, and fix his compensation with the approval of the board of trustees of the Montana historical society.

Section 3. The state archivist shall preserve noncurrent records of permanent value and shall establish and administer an active, continuing program for the economical and efficient management of state records. Upon request, he shall assist and advise in the establishment of records management programs in the executive, legislative, and judicial branches of state government with due regard to the functions of the officers and agencies involved.

Approved: February 24, 1969.

CHAPTER 109

An Act Allowing County Water and Sewer District Elections to Be Combined.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. On and after the effective date of this act, the following new section, pertaining to county water and sewer districts, shall be law:

County water and sewer districts—elections may be combined.

16-4535. Elections may be combined. The board of commissioners in its discretion may combine in one election the election on the formation of the district, the election of directors, and the election on incurring a bonded indebtedness, so that the electors of the district may vote on all of these matters on the same date and at the same time. If the elections are combined the board of commissioners shall so declare by resolution containing the provisions required by 16-4517. Candidates for the office of director shall be nominated in the manner required by 16-4507. Whenever the elections are combined, notice of the election, the names of the candidates and the details concern-

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ing the bonded indebtedness may be given in the manner prescribed by 16-4505 and 16-4507 or either of them.

Section 2. This act shall be in full force and effect on and after the date of passage and approval. Effective immediately.

Approved: February 24, 1969.

CHAPTER 110

An Act Amending Sections 93-1404 and 93-1503, R.C.M. 1947, to Provide for a Change in the Method of Drawing Jurors and to Eliminate the Jury Boxes Numbered Two and Three and to Provide for a Change in the Method of Notifying Jurors; Repealing Sections 93-1504, 93-1505, 93-1506, 93-1510 and 93-1511, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-1404, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-1404. **Duty of clerk—jury boxes.** The clerk shall prepare and keep a jury box and contents as follows: The number of each juror shall be written, typed or stamped on paper or other suitable material, identical in all respects, and placed in a box of ample size to permit said *numbers* to be thoroughly mixed, and which said box shall be kept for that purpose and shall be known as, and plainly marked, "jury box No. 1." *The numbers* may be used as often as necessary; provided, however, *none* shall be used which is in any manner whatsoever defaced or disfigured, or so marked that it may be recognized or distinguished from the *others* in said jury box No. 1 *except by the number thereon.* There shall be so enclosed in said box one number, and only one number, corresponding to the *number before the* name of each juror on the jury list." Duty of clerk—jury books.

Section 2. Section 93-1503, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-1503. **Drawing—how conducted.** 1. The clerk must place said box on a rod so that the same may readily revolve and said box must be revolved a sufficient number of times so as to insure that the *numbered slips* in said box shall become thoroughly mixed, and thereafter the Drawing—how conducted.

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judge must draw from said box one (1) at a time, as many of *the numbered slips* as are ordered by the court.

2. A minute of the drawing shall be entered in the minutes of the court, which must show the names of the jurors corresponding to the numbers so drawn from said jury box.

3. If the name of any person so drawn is deceased or insane, or who may have permanently removed from the county, and the fact shall be made to appear to the satisfaction of the court, the name of such person shall be omitted from the list, and another juror drawn in his place, and the fact shall be entered upon the minutes of the court. The same proceeding shall be had as often as may be necessary, until the number of jurors required shall have been drawn. After the drawing shall have been completed, the clerk shall make a copy of the list of names of the persons so drawn, and certify the same. In his certificate he shall state the date of the order and of the drawing, and the number of the jurors drawn, and the time when and the place where such jurors shall be required to appear. Such certificate and list shall be delivered to the sheriff for service.

4. No person shall be asked to serve on more than one term during any year unless all the numbers in jury box No. 1 have been drawn and there are no other qualified jurors available."

Additional jurors.

Section 3. Whenever it appears to a district judge that additional jurors will be needed for any term or trial the judge shall draw as many numbers from jury box No. 1 as are necessary to secure the required number of additional jurors. Before drawing the numbers the judge shall by appropriate order designate the number of jurors needed, and, when the judge believes that securing the additional jurors from all of the county would cause unnecessary delay or expense then he may order the jurors selected from only a designated portion of the county, which portion shall never be less than the corporate limits of the county seat. If, in the selection of the additional jurors, a number is drawn and the jury list shows the person represented by the number to be a resident of an area outside the area designated by the court order then that number shall be returned to the jury box and a new number drawn. When the required number of names have been selected the

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judge may order the prospective jurors notified by telephone by the clerk of the court or he may order them summoned by the sheriff either by certified mail or by personal service.

Section 4. Sections 93-1504, 93-1505, 93-1506, 93-1510, and 93-1511, R.C.M. 1947, are repealed. **Repealing clause.**

Approved: February 24, 1969.

CHAPTER 111

An Act Relating to Limited Partnerships, Amending Sections 63-702, 63-601, 63-603 and 63-906, R.C.M. 1947, to Change the Provisions for Filing the Partnership Certificate, Amendment Certificate and Cancellation Certificate, and to Eliminate the Application of the Fictitious Name Statutes to Such Limited Partnerships.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 63-702, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"63-702. **Formation.** (1) Two or more persons desiring to form a limited partnership shall **Limited partnership—formation.**

(a) Sign and swear to a certificate, which shall state

I. The name of the partnership,

II. The character of the business,

III. The location of the principal place of business,

IV. The name and place of residence of each member; general and limited partners being respectively designated,

V. The term for which the partnership is to exist,

VI. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner,

VII. The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they shall be made,

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VIII. The time, if agreed upon, when the contribution of each limited partner is to be returned,

IX. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution,

X. The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution,

XI. The right, if given, of the partners to admit additional limited partners,

XII. The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority,

XIII. The right, if given, of the remaining general partner or partners to continue the business on the death, retirement or insanity of a general partner, and

XIV. The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.

(b) File the certificate in the office of the county clerk and recorder *of the county, if any, in which the principal place of business is located, and in the office of the secretary of state.*

(2) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of paragraph (1)."

Amending clause.

Section 2. Section 63-601, R.C.M. 1947, is amended to read as follows:

Fictitious name.

"63-601. **Fictitious name.** Every partnership, *other than a limited partnership,* transacting business in this state under a fictitious name, or a designation not showing the names of the persons interested as partners in such business, must file with the clerk of the county in which its principal place of business is situated, a certificate, stating the names in full of all the members of such partnership and their places of residence, and publish the same once a week, for four successive weeks, in a newspaper published in the county, if there be one, and if there be

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none in such county, then in a newspaper published in an adjoining county."

Section 3. Section 63-603, R.C.M. 1947, is amended to read as follows: Amending clause.

"63-603. **Change of membership—filing new certificate.** On every change of the members of a partnership, *other than a limited partnership,* transacting business in this state under a fictitious name, or a designation which does not show the names of the persons interested as partners in its business, a new certificate must be filed with the county clerk, and a new publication made, as required by this chapter, on the formation of such partnership." Change of membership—filing new certificate.

Section 4. Section 63-906, R.C.M. 1947, is amended to read as follows: Amending clause.

"63-906. **Requirements for amendment and for cancellation of certificate.** (1) The writing to amend a certificate shall Requirements for amendment and for cancellation of certificate.

(a) Conform to the requirements of section 63-702 (1-a) as far as necessary to set forth clearly the change in the certificate which it is desired to make, and

(b) Be signed and sworn to by all members, and an amendment substituting a limited partner or adding a limited or general partner shall be signed also by the member to be substituted or added, and when a limited partner is to be substituted, the amendment shall also be signed by the assigning limited partner.

(2) The writing to cancel a certificate shall be signed by all members.

(3) A person desiring the cancellation or amendment of a certificate, if any person designated in paragraphs (1) and (2) as a person who must execute the writing refuses to do so may petition the district court to direct a cancellation or amendment thereof.

(4) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so, it shall order the county clerk and recorder in the office where the certificate is *filed and the secretary of state to file* the cancellation or amendment of the certificate; and where the certificate is to be amended, the

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court shall also cause to be filed in said offices a certified copy of its decree setting forth the amendment.

(5) A certificate is amended or canceled when there is filed in the offices where the certificate is *filed*:

(a) A writing in accordance with the provisions of paragraph (1), or (2) or

(b) A certified copy of the order of court in accordance with the provisions of paragraph (4).

(6) After the certificate is duly amended in accordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by this act."

Approved: February 24, 1969.

CHAPTER 112

An Act to Amend Section 32-4410, R.C.M. 1947, to Prohibit Littering Private Property Used for Public Recreation and to Increase the Maximum Fine for Littering.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-4410, R.C.M. 1947, is amended to read as follows:

Dumping garbage or other debris or refuse.

"32-4410. **Dumping garbage or other debris or refuse.** (1) It shall be unlawful to dump or leave any garbage, dead animal, or other debris or refuse:

(a) In or upon any highway, road, street, or alley of this state.

(b) In or upon any public recreational property, highway, street, or alley under the control of the state of Montana or any political subdivision thereof, or any officer or agent or department thereof.

(c) Within two hundred yards of such public highway, road, street, or alley, or public recreational property.

(d) On privately owned property where hunting, fishing or other recreation is permitted, provided this subsection shall not apply to the owner, his agents or those disposing of debris or refuse with the owner's consent.

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(2) Any person found guilty of a violation of this section shall be fined in the sum not exceeding *one hundred dollars ($100),* or imprisoned in the county jail for a period not exceeding thirty (30) days, or be punished by both such fine and imprisonment, in the discretion of the court.

(3) The provisions of this section shall be enforced by all highway patrolmen, sheriffs, policemen, and all other enforcement agencies and officers of the state of Montana. In addition, game wardens shall have the right to enforce the provisions of this section *on public recreational property and on private property where public recreation is permitted."*

Approved: February 24, 1969.

CHAPTER 113

An Act Amending Section 81-103, R.C.M. 1947, to Provide for the Management of the State Owned Lands Under the Multiple-Use Concept as Defined Herein.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 81-103, R.C.M. 1947, is amended to read as follows: Amending clause.

"81-103. **Powers and duties of state board of land commissioners.** The state board of land commissioners, consisting of the governor, superintendent of public instruction, secretary of state and attorney general, as provided by the constitution, shall be the governing board of the department of state lands and investments; it shall have and exercise general authority, direction and control over the care, management and disposition of all state lands and the funds arising from the leasing, use, sale and disposition of such lands or otherwise coming under its administration. In the exercise of these powers, the guiding rule and principle shall be that these lands and funds are held in trust for the support of education, and for the attainment of other worthy objects helpful to the well-being of the people of this state; and that it is the duty of the board so to administer this trust as to secure the largest measure of legitimate and reasonable advantage Powers and duties of state board of land commissioners.

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to the state. *It is the duty of the board to manage these lands under the multiple-use management concept defined as: The management of all the various resources of the state-owned lands so that they are utilized in that combination best meeting the needs of the people and the beneficiaries of the trust, making the most judicious use of the land for some or all of those resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources, and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources.* The enumeration in this act of specific powers conferred upon the board shall not be so construed as to deprive the board of other powers not enumerated but inherent in the general and discretionary powers conferred by the constitution, and necessary for the proper discharge of its duties; but there can be no such implied powers inconsistent with any part of the constitution, nor shall any inherent powers be assumed to exist which would be inconsistent with any statutory provision or with the general rule and principle herein stated."

Approved: February 24, 1969.

CHAPTER 114

An Act to Provide that the Board of County Commissioners May Purchase or Lease Motor Vehicles from County Funds for the Use of the County Sheriff or any Person Employed by Him and May Also Pay for the Operation and Maintenance of Those Vehicles from County Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Board may purchase or lease motor vehicles for use of sheriff.

Section 1. The board of county commissioners, when requested to do so by the county sheriff, may purchase or lease motor vehicles from county funds for the use of the sheriff or any person employed by him and may also pay for the operation and maintenance of those vehicles from county funds. No mileage shall be paid by the county to sheriffs whose vehicles are provided and maintained by the

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county. All mileage paid to sheriffs whose vehicles are provided and maintained by the county shall be paid over to the county treasurer and deposited in the county general fund.

Approved: February 24, 1969.

CHAPTER 115

An Act to Amend Section 53-101, R.C.M. 1947, to Provide for the Microfilming of Released Conditional Sales Contracts and Chattel Mortgages and Records Pertaining Thereto and the Destruction of the Original Documents.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-101 is hereby amended to read as follows: Amending clause.

"53-101. **Duties of registrar of motor vehicles—records.** 1. The warden of the state penitentiary shall be, and is hereby constituted the registrar of motor vehicles, trailers and semitrailers, and as such it shall be his duty to keep a record as hereinafter specified of all motor vehicles, trailers and semitrailers of every kind, and certificates of registration and ownership thereof, and of all dealers in motor vehicles. Duties of registrar of motor vehicles—records.

2. In the case of motor vehicles, trailers and semitrailers, the record shall show the following: Name of owner, residence by town and county, business address, name and address of conditional sales vendor, mortgages or other lien holder and amount due under contract or lien, manufacturer of car, manufacturer's designation of style of car or vehicle, identifying number, year of manufacture, character of motive power and shipping weight of car as shown by the manufacturer and the distinctive license number assigned such car or vehicle; and, if a truck or trailer, the number of tons capacity, and such other information as may from time to time be found desirable.

3. The registrar shall file applications for registration received by him from the county treasurers of the state and register the vehicles therein described and the owners thereof in suitable books or on index cards as follows:

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(a) Under distinctive license number assigned to vehicle by the county treasurers.

(b) Alphabetically under name of owners.

(c) Numerically under make and identifying number of vehicle.

(d) Such other index of registration as registrar shall deem expedient.

4. In the case of dealers the records shall show the information contained in the application for dealer's license as required by section 53-118, as well as the distinctive license number assigned to the dealer.

5. The registrar of motor vehicles shall appoint such deputies, subordinate officers, clerks, investigators and other employees as may be necessary to carry out this act, providing there be selected as many of the clerical help from the inmates of the state prison as the registrar determines to be possible. The salaries of all such appointees shall be fixed by the registrar of motor vehicles as authorized by the state board of examiners, with respect to salaries of other subordinate state officers and employees.

6. All office equipment, books, files and records belonging to the motor department shall be in the care and general custody and control of the registrar of motor vehicles at the state penitentiary. In order to prevent an accumulation of records and files which shall have ceased to be of any value the registrar of motor vehicles shall have the authority and it shall be his duty to destroy all correspondence, motor card and application card records after the expiration of five (5) years from the date thereof, and all conditional sales contracts and chattel mortgages and records pertaining thereto *shall be microfilmed and the original destroyed when t*he same have ceased to be liens on the motor vehicles described therein.

7. The registrar may establish and maintain a short-wave radio station in order to report motor vehicle registration information to the highway patrol, sheriffs, and to chiefs of police of each incorporated city of the state who are able to communicate with such short-wave radio station.

8. All such records shall be open to inspection during all reasonable business hours and the registrar of motor

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vehicles shall furnish any information from said records upon payment by the applicant of the cost of transcribing the information requested."

Approved: February 24, 1969.

CHAPTER 116

An Act Amending Section 53-108, R.C.M. 1947, Relating to Renewal of Registration of Motor Vehicles and Allowing any Person to Obtain a Temporary Windshield Sticker From the County Treasurer Upon Registration or Reregistration of a Motor Vehicle Transfer.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-108, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"53-108. **Renewal of registration.** Every vehicle registration under this act shall expire on December thirty-first of each year and shall be renewed annually upon application and payment of license fees, as provided in sections 53-114 and 53-122, such renewal to take effect on the first day of January of each year. The certificate of registration issued hereunder shall be valid during the registration year only for which issued, and the certificates of ownership shall remain valid until canceled by the registrar of motor vehicles upon a transfer of any interest shown therein and need not be renewed annually. Upon annual renewal, whenever the legal owner of the vehicle is other than the registered owner, the registrar of motor vehicles shall immediately notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year. **Renewal of registration.**

The owner of a vehicle registered under the provisions of this act shall be entitled to operate such vehicle between January first and February fifteenth without displaying the registration certificate of the current year, on condition that such owner shall, during said period, display upon such vehicle the number plates or plate assigned thereto for the previous year.

Any purchaser of a motor vehicle which has not been registered or reregistered for the current year may during the time *the* certificate of ownership thereto is in the

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process fo being transferred in the office of the registrar of motor vehicles, upon making an affidavit to that effect upon a form prescribed by the registrar of motor vehicles and upon the payment of a fee of two dollars ($2.00) to be collected by the county treasurer and remitted to the registrar of motor vehicles, obtain from the county treasurer of the county in which said vehicle is subject to tax a temporary windshield sticker of such size, color and design as the registrar of motor vehicles may prescribe, to be validated by the county treasurer for a period of *sixty (60)* days from the date of issuance, and such purchaser, upon displaying such sticker on the lower right-hand corner of the windshield of such motor vehicle and upon displaying the number plates or plate assigned thereto for the previous year (unless the seller has been unable to deliver such previous year's plate or plates) shall be entitled to operate such vehicle during the period for which such windshield sticker has been validated without displaying the registration certificate or number plates or plates for the current year. Provided, however, the county treasurer shall not sell, or no person shall purchase more than one (1) *sixty (60)* day temporary windshield sticker for any vehicle, the ownership of which has not changed since the issuance of the previous *sixty (60)* day windshield sticker. Provided, further, however, that any purchaser of a new motor vehicle from a duly licensed motor vehicle dealer shall have the grace period of three (3) days from the date of purchase to make such application for registration and obtain registration plates, and it shall not be a violation of this chapter or any other law for such purchaser to operate such new motor vehicle upon the streets and highways of this state without a certificate of registration and registration plates during the said three-day period; providing further that such purchaser must have in his possession a valid bill of sale or other satisfactory evidence of ownership."

Approved: February 24, 1969.

CHAPTER 117

An Act to Provide for a One (1) Day Nonresident Fishing License to be Issued by the State Fish and Game Commission.

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Be it enacted by the Legislative Assembly of the State of Montana:

Nonresident one day fishing license.

Section 1. **Nonresident one (1) day fishing license (Class B-4.)** Any person not a resident as defined in section 26-202.3, R.C.M. 1947, who is a holder of a valid *wildlife conservation* license, upon payment of the sum of one dollar ($1) to any agent of the state fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a one (1) day nonresident fishing license, which shall authorize the holder to fish with hook and line as prescribed by rules and regulations of the commission for one (1) calendar day as indicated on the license.

Effective date.

Section 2. This act shall be in full force and effect from and after May 1, 1969.

February 26, 1969.

Approved: February 26, 1969.

CHAPTER 118

An Act Licensing and Regulating the Practice of Public Accounting in the Public Interest; Creating a State Board of Public Accountancy and Prescribing Its Powers and Duties: Providing Penalties for Violation of the Provisions of this Act: Repealing Sections 66-1801, 66-1802, 66-1803, 66-1804, 66-1805, 66-1806, 66-1807, 66-1809, 66-1810, 66-1811, and 66-1812, of the Revised Codes of Montana, 1947, as Amended, and All Other Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

State board of public accountancy—membership.

Section 1. **State Board of Public Accountancy.** Membership. There is hereby created a state board of public accountancy, which shall consist of five (5) members. The initial term of one (1) member shall be for a period of two (2) years; the initial term of two (2) members shall be for a period of four (4) years; and the initial term of two (2) members shall be for a period of six (6) years. Upon the expiration of an initial term, the successor shall thereafter be appointed by the governor for a term of six (6) years. The governor shall appoint two (2) public accountants to the board within thirty (30) days after the

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effective date of this act, one (1) of said public accountants to s erve an initial term of four (4) years and the other said public accountant to serve an initial term of six (6) years. The remaining members of the board shall be certified public accountants appointed by the governor within thirty (30) days after the effective date of this act, and the governor within said thirty (30) days shall designate one (1) of said persons to serve an initial term of two (2) years, one (1) of said persons to serve an initial term of four (4) years, and one (1) of said persons to serve an initial term of six (6) year. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office, a member shall continue to serve until his successor shall have been appointed and shall have qualified.

Qualifications of board members.

Section 2. **Qualifications of Board Members.** The board shall consist of three (3) members who are certified under section 7 hereof, and two (2) members who are licensed public accountants under section 8 but do not possess certificates as certified public accountants. All members must be citizens of the United States and residents of this state, and holders of current licenses under section 21. The certified public accountants on said board appointed by the governor must have been certified and actively engaged in the practice of public accounting for at least five (5) years prior to their appointment. No two (2) such members shall be residents of the same county. The other board members must have been actively engaged in the practice of public accounting for at least five (5) years prior to their appointment. No two (2) such members shall be residents of the same county.

The Montana Society of Certified Public Accountants shall submit to the governor biennially a list of names of two (2) candidates from which the appointments of certified public accountant board members may be made, and the Montana Society of Public Accountants shall submit to the governor biennially a list of names of two (2) candidates from which the appointments of licensed public accountant board members may be made; but the governor, in making appointments, shall not be restricted to the names so submitted. The governor shall remove from the board any member whose license to practice has become void, or has been revoked or suspended, or who ceases to be engaged in the practice of public accounting and may, after hear-

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ing, remove any member of the board for neglect of duty or other just cause. No person who has served two (2) successive complete terms of two (2), four (4) or six (6) years shall be eligible for reappointment until after the lapse of one (1) year. Appointment to fill an unexpired term is not to be considered as a complete term.

Organization and compensation of board members.

Section 3. **Organization and Compensation of Board Members.** The board shall elect annually a chairman, a secretary, and a treasurer from its members and all or any two (2) of such officers may sign and approve claims filed against the board of accountancy for payment of all expenses incurred under this act. The board may adopt, and amend from time to time, rules and regulations for the orderly conduct of its affairs and for the administration of this act. A quorum for the transaction of business shall consist of at least three (3) members of the board. The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings and in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this act, copies of said records certified as correct under the seal of the board shall be admissable in evidence as tending to prove the content of said records. The board may employ such personnel and arrange for such assistance as it may require for the performance of its duties. Each member of the board shall receive, as compensation, the sum of twenty dollars ($20) per diem for each day actually engaged in the duties of his office, and, in addition, shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties.

Disposition of funds.

Section 4. **Disposition of funds.** All fees and other moneys received by the board pursuant to the provisions of this act shall be deposited with the state treasurer to the account of the earmarked revenue fund for the use of the state board of public accountancy. All existing funds and accumulated balances held for the purpose of administering pre-existing accountancy laws shall be transferred to said earmarked revenue fund.

Rule making powers of the board.

Section 5. **Rule making powers of the board.** The board may promulgate and amend rules of professional conduct appropriate to establish and maintain a high standard of integrity, dignity and competency in the profession of public accountancy. At least sixty (60) days

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prior to the promulgation of any such rule or amendment, the board shall mail copies of the proposed rule or amendment to each holder of a license issued under section 21 of this act with a notice advising him of the proposed effective date of the rule or amendment and requesting that he submit his comments thereon at least fifeen (15) days prior to such effective date; such comments shall be advisory only. The secretary's certificate of mailing to all licensed accountants shall be conclusive proof thereof.

Examining committee.

Section 6. **Examining committee.** The members of the board shall constitute the examining committee. This committee shall hold and grade a written examination in accounting and auditing and such related subjects as the examining committee shall determine to be appropriate. The grade determination of the examining committee shall be final in each case. The examining committee shall use the examination and grading services of the American Institute of Certified Accountants. The examination is to be held at least annually and at such other times as applications warrant. The examining committee may determine the time and place of examination and may adopt such rules as are necessary to the orderly conduct of its affairs.

Certificates of certified public accountants.

Section 7. **Certificates of certified public accountants.** A certificate shall be issued by the board to any person:

(a) Who is (1) a citizen of the United States or who has duly declared his intention of becoming a citizen, (2) is a resident of this state or has a place of business herein or, as an employee, is regularly employed herein, (3) has attained the age of twenty-one (21) years, and (4) is of good moral character;

(b) Who shall have successfully passed the certified public accountants' examination; and

(c) Who meets the requirements of education and experience set forth in sections 10, 11, 12 and 13 of this act.

Registration of public accountants.

Section 8. **Registration of public accountants.** Registration as a public accountant shall be available to any person:

(a) Who is (1) a citizen of the United States or who has duly declared his intention of becoming a citizen, (2) is a resident of this state or has a place of business herein or, as an employee, is regularly employed herein, (3) has

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attained the age of twenty-one (21) years, and (4) is of good moral character;

(b) Who meets the requirements of education and experience set forth in sections 10, 11, 12 and 13 of this act; and

(c) Who fulfills and complies with the qualifications and requirements set forth in any one of the subdivisions of section 9 of this act.

Section 9. **Further requirements for registration of public accountants.** (a) Persons who held themselves out to the public as public accountants for a minimum of one (1) year prior to July 1, 1969 and who were engaged as principals (as distinguished from employees) within this state on the effective date of this act in the practice of public accounting as their principal occupation may register with the board on or before December 31, 1969, and upon such registration and payment of the license fee, may be licensed by the board as a licensed public accountant. A principal is defined as either the owner of or a partner is an existing accounting practice on the effective date of this act. Initial registration under this subdivision shall not be available after December 31, 1969.

Further requirements for registration of public accountants.

(b) Persons serving in the armed forces of the United States of America on the effective date of this act who immediately prior to entering such service held themselves out to the public as public accountants and who were engaged as principals (as distiguished from employees), within this state, in the practice of public accounting as their principal occupation prior to said service in the armed forces, may register with the board at any time within six (6) months after the date of their separation from active service, and upon such registration and payment of the license fee, be licensed by the board as a licensed public accountant.

(c) Any person who does not qualify under and comply with the provisions of subdivisions (a) or (b) hereof must fulfill the following additional requirements, as a prerequisite to the issuance of a license as a licensed public accountant:

(i) he must pass the written examination in accounting practice, and

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(ii) he must also pass the written examination in either accounting theory or auditing, or in lieu of the examination in auditing or theory, he must be the holder of a United States Treasury card which is in good standing at the time of his sitting for the examination in accounting practice. The examinations referred to in this subdivision shall be those prescribed for such subjects under section 6 of this act, and shall be conducted and graded by the same standards as those given to candidates for certified public accountant.

Education and experience requirements for years ending December 31, 1971 and prior thereto.

Section 10. **Education and experience requirements for the years ending December 31, 1971 and prior thereto.** For the years ending December 31, 1971, and prior thereto, education and experience requiremnts shall be graduation from a high school with a four-year course of study, or an equivalent education, or commercial experience in accounting sufficient, in the judgment of the board, to justify a waiver of such education requirement.

Education and experience requirements for the years ending after December 31, 1971, and prior to January 1, 1975.

Section 11. **Education and experience requirements for the years ending after December 31, 1971, and prior to January 1, 1975.** For the years ending after December 31, 1971, and prior to January 1, 1975, education and experience requirements shall be as follows:

(a) satisfactory completion of two (2) years of study in a college or university accredited to offer a baccalaureate degree or an equivalent education in the judgment of the board; and

(b) one (1) year of experience in public, private, or governmental accounting of nature and quality satisfactory to the board.

Education and experience requirements for the years ending after December 31, 1974.

Section 12. **Education and experience requirements for the years ending after December 31, 1974.** For the years ending after December 31, 1974, education and experience requirements shall be as follows:

(a) graduation from a college or university accredited to offer a baccalaureate degree, or an equivalent education in the judgment of the board; and

(b) one (1) year of experience in public, private or governmental accounting of a nature and quality satisfactory to the board.

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Applicability of education and experience requirements.

Section 13. **Applicability of education and experience requirements.** (a) None of the foregoing education and experience requirements shall apply to a candidate for certified public accountant who holds a current license as a public accountant, or who, on the effective date of this act, was employed as a staff accountant in this state by a practicing public accountant, and is so employed at the time of his examination.

(b) A candidate who is otherwise eligible may take the examination provided for in section 6, before meeting the age and experience requirements herein specified, but the successful completion of such examination shall not qualify him for a certificate or a license as a public accountant until he meets such requirements.

(c) The examining committee may by regulation provide for granting a credit to a candidate for his satisfactory completion of a written examination in any one or more of the subjects of examination given by the licensing authority in any other state, if when he took such examination he was not a resident of this state. Such regulations shall include such requirements as the examining committee shall determine to be appropriate in order that any examination approved as a basis for any such credit shall, in the judgment of the examining committee, be at least as thorough as that included in the most recent examination given by the examining committee at the time of the granting of such credit.

(d) The experience requirements herein set forth need not be continuous or for one (1) employer.

Except as provided in subparagraph (a) above, the applicable education and experience requirements shall be those in effect on the date of the examination by which the candidate successfully completes his examination; but the board may provide by requlation for exceptions to the general rule in order to prevent what it determines to be undue hardship to candidates resulting from changes in the education and experience requirements.

Powers of board.

Section 14. **Powers of board.** The board shall have power to prescribe, by uniform rule, for the following:

(a) The terms and conditions under which a candidate who passes one or more subjects of examination may be re-

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examined in only the remaining subjects, with credit for the subjects previously passed;

(b) A reasonable waiting period for a candidate's re-examination in a subject he has failed;

(c) The maximum number of reexaminations for which a candidate may apply;

(d) The fees to be charged each candidate for initial examinations and special examinations, not in excess of fifty dollars ($50) each, and for reexaminations, not in excess of ten dollars ($10) for each subject in which the candidate is reexamined.

Existing certificates.

Section 15. **Existing certificates.** Reciprocity. Persons who, on the effective date of this act, held certified public accountant certificates heretofore issued under the laws of this state shall not be required to obtain additional certificates under this act, but shall otherwise be subject to all provisions of this act; and such certificates heretofore issued shall, for all purposes, be considered certificates issued under this act and subject to the provisions hereof.

The board, in its discretion, may waive the examination and issue a certificate as a certified public accountant to any person otherwise eligible therefor, who is the holder of a certificate as a certified public accountant, then in full force and effect, issued under the laws of any state, or is the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant in this state, which is then in full force and effect, where the requirements entitling him to practice as such certified public accountant were substantially equivalent to those in force in the state of Montana at the time the certificate was originally issued.

The board in its discretion, may waive the examination and register as a public accountant any person otherwise eligible therefor, who is the holder of a license as a public accountant, then in full force and effect, issued under the laws of any state, or is the holder of a license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a licensed public accountant in this state, which is then in full force and effect, where the require-

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ments entitling him to practice as such licensed public accountant were substantially equivalent to those in force in the state of Montana at the time the license was originally issued.

Registration of foreign accountants.

Section 16. **Registration of foreign accountants.** The board may in its discretion permit the registration of any person of good moral character who is the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country. A person so registered shall use only the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

Partnership composed of certified public accountants.

Section 17. **Partnership composed of certified public accountants. Registration thereof.** A partnership engaged in this state in the practice of public accounting may register with the board as a partnership of certified public accountants provided it meets the following requirements:

(a) At least one general partner thereof must be a certified public accountant of this state in good standing, and must hold a license issued under section 21 which is in full force and effect.

(b) Each partner thereof personally engaged within this state in the practice of public accounting as a member thereof must be a certified public accountant of this state in good standing and must hold a license issued under section 21 which is in full force and effect.

(c) Each partner thereof must be a certified public accountant of some state in good standing.

(d) Each staff member who is employed within this state, and who is certified under section 7 or registered under section 8, must also hold a license issued under section 21 which is in full force and effect.

Application for such registration must be made upon the affidavit of a general partner of such partnership who is a certified public accountant of this state in good standing. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered may use the words "certified public accountants" or the abbreviation "CPA's" in connection with its partnership name. Notification shall be given the board

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within one (1) month after the admission to or withdrawal of a partner from any partnership so registered.

Temporary certificate and temporary license.

Section 18. **Temporary certificate and temporary license.** (a) In the event an applicant for a certificate as a certified public accountant meets all of the requirements for such certificate, other than the residence requirement, the board may, in its discretion, issue to him a temporary certificate as a certified public accountant which shall be effective only until the board shall notify him that his application has been either granted or rejected. In no event shall such temporary certificate be in effect for more than twelve (12) months.

(b) In the event an application for registration as a public accountant meets all of the requirements for such registration, other than the residence requirement, the board may, in its discretion, issue to him a temporary license, as a licensed public accountant, which shall be effective only until the board shall notify him that his application has been either granted or rejected. In no event shall such temporary license be in effect for more than twelve (12) months.

Partnership composed of public accountants.

Section 19. **Partnerships composed of public accountants. Registration thereof.** A partnership engaged in this state in the practice of public accounting may register with the board as a partnership of public accountants provided it meets the following requirements:

(a) At least one (1) general partner thereof must be a certified public accountant or a licensed public accountant of this state in good standing and a holder of a license issued under section 21 in full force and effect.

(b) Each partner thereof personally engaged within the state in the practice of public accounting as a member thereof must be a certified public accountant or a licensed public accountant of this state in good standing and a holder of a license issued under section 21 in full force and effect.

(c) Each local manager in charge of an office or a firm in this state must be a certified public accountant or a licensed public accountant of this state in good standing and a holder of a license issued under section 21 in full force and effect.

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(d) Each staff member employed within this state who is certified under section 7 or registered under section 8 must also hold a license issued under section 21 which is in full force and effect.

Application for such registration must be made upon the affidavit of a general partner of such partnership who holds a license to practice in this state as a certified public accountant or as a licensed public accountant. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered may use the words "public accountants" in connection with its partnership name. Notification shall be given the board within one (1) month after the admission to or withdrawal of a partner from any partnership so registered.

Registration of offices.

Section 20. **Registration of offices.** Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant or a partnership of certified public accountants or by a licensed public accountant or a partnership of licensed public accountants or by one registered under section 16 shall be registered annually under this act with the board, but no fee shall be charged for such registration. The principals of sole proprietorships and all staff employees who are employed within the state and who are holders of certificates as certified public accountants must also hold a license issued under section 21 of this act which is in full force and effect; partnerships must be registered under the provisions of section 17 or section 19, whichever is applicable, and foreign accountants under the provisions of section 16.

Annual license to practice.

Section 21. **Annual licenses to practice.** Licenses to engage in the practice of public accounting in this state shall be issued by the board to holders of the certificate of certified public accountant issued under section 7 of this act and to persons registered under section 8 of this act; provided all offices, if any, of such certificate holder or licensed public accountant are maintained and registered as required under section 20 of this act. There shall be an annual license fee in an amount to be determined, from time to time, by the board, not to exceed twenty-five dollars ($25) for any year or part thereof. All licenses shall expire on the last day of December of each year and may be renewed annually for a period of one (1) year by certificate

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holders and licensed public accountants in good standing upon payment of an annual renewal fee of not to exceed twenty-five dollars ($25). Failure of a certificate holder or licensed public accountant to apply for such annual license to practice within (a) three (3) years from the expiration date of the license to practice last obtained or renewed, or (b) three (3) years from the date upon which the certificate holder or licensee was granted his certificate or license, shall deprive him of the right to such license, unless the board, in its discretion, determines such failure to have been due to excusable neglect. Any certificate holder or licensed public accountant who is retiring from active practice or other employment because of illness, age, marriage or other justifiable cause, in the opinion of the board, may be placed on an inactive list, without prejudicing his right to be issued a license at a future date. A request for inactive status must be sent to the board within the three-year period as outlined in this section.

Revocation or suspension of certificate, or registration or license.

Section 22. **Revocation or suspension of certificate, or registration or license.** After notice and hearing as provided in section 24 of this act, the board may revoke, or may suspend any certificate issued under section 7 of this act, or any registration granted under section 8 of this act, or many revoke, suspend or refuse to renew any license issued under section 21 of this act, or may censure the holder of any such license, for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining a license to practice public accounting under this act;

(b) Dishonesty, fraud or gross negligence in the practice of public accounting;

(c) Violation of any of the provisions of section 26 of this act;

(d) Violation of a rule of professional conduct promulgated by the board under the authority granted by this act;

(e) Conviction of a felony under the laws of any state or of the United States;

(f) Conviction of any crime, an element of which is

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dishonesty or fraud, under the laws of any state or of the United States;

(g) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state, for any cause other than failure to pay an annual registration fee in such other state;

(h) Suspension or revocation of the right to practice before any state or federal agency;

(i) Failure of a certificate holder or licensed accountant to obtain an annual license under section 21, within either (a) three (3) years from the expiration date of the license to practice last obtained or renewed by said certificate holder or registrant, or (b) three (3) years from the date upon which the certificate holder or licensed accountant was granted his certificate or registration, unless such failure shall have been excused by the board, pursuant to the provisions of section 21.

Revocation or suspension of partnership registration.

Section 23. **Revocation or suspension of partnership registration.** After notice and hearing as provided in section 24 of this act, the board shall revoke the registration of a partnership if at any time it does not have all the qualifications prescribed by the section of this act under which it qualified for registration.

Hearings before board—notice—procedure—review.

Section 24. **Hearings before board. Notice. Procedure. Review.** (a) **Commencement of proceeding.** The board may initiate proceedings under this act either on its own motion or on the complaint of any person.

(b) **Notice-service and contents.** A written notice stating the nature of the charge or charges against the accused and the time and place of the hearing before the board on such charges shall be served on the accused not less than thirty (30) days prior to the date of said hearing, either personally or by mailing a copy thereof registered mail to the address of the accused last known to the board.

(c) **Failure to appear.** If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing and defend, the board may proceed to hear evidence against him and may enter such order as shall be justified by the evidence,

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which order shall be final unless he petitions for a review thereof as provided herein; provided, however, that within thirty (30) days from the date of any order, upon a showing of good cause for failure to appear and defend, the board may reopen said proceedings and may permit the accused to submit evidence in his behalf.

(d) **Counsel - witnesses - cross-examination.** At any hearing the accused may appear in person and by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(e) **Subpoenas—oaths.** The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proofs and receive exhibits in evidence in connection with or upon hearing under this act. In case of disobedience to a subpoena the board may invoke the aid of any court of this state in requiring the attending and testimony of witnesses and the production of documentary evidence.

(f) **Evidence.** The board shall not be bound by technical rules of evidence.

(g) **Record.** A stenographic record of the hearings shall be kept and a transcript thereof filed with the board.

(h) **Attorney for the board.** At all hearings the attorney general of this state, or one (1) of his assistants designated by him, or such other legal counsel as may be employed, shall appear and represent the board.

(i) **Decision.** The decision of the board shall be by majority vote thereof.

(j) **Review by Court.** Anyone adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the district court of the county in which he has his principal place of business within thirty (30) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any mem-

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ber of the board and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. The case shall then be tried; new evidence may be introduced and; briefs may be filed as in an ordinary case at law. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may, in its discretion, stay the effect of the board's order pending its determination of the case. The court's decision shall have the force and effect of a decree in equity.

Reinstatement.

Section 25. **Reinstatement.** Upon application in writing and after hearing pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have been revoked, or may permit the relicensing of anyone whose license has been revoked, or may reissue or modify the suspension of any license to practice public accounting which has been revoked or suspended.

Acts declared unlawful.

Section 26. **Acts Declared Unlawful.** (a) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under section 7 of this act, holds a license issued under section 21 of this act which is not revoked or suspended, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 20; provided, however, that a foreign accountant who has registered under the provisions of section 16 of this act, and who holds a current license issued under section 21 of this act, may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

(b) No partnership shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership is composed of certified public accountants unless such partnership is registered as a

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partnership of certified public accountants under section 17 of this act, and all of such partnerships's offices in this state for the practice of public accounting are maintained and registered as required under section 20.

(c) No person shall assume or use the title or designation "licensed public accountant", "public accountant", or any other title, designation, words, letters, abbreviations, sign, card or device tending to indicate that such person is a public accountant, unless such person is registered as a licensed public accountant under section 8 of this act, holds a current license issued under section 21 of this act and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 20, or unless such person has received a certificate as a certified public accountant under section 7 of this act, holds a current license issued under section 21 of this act and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 20.

(d) No partnership shall assume or use the title or designation "licensed public accountants", "public accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership is composed of public accountants, unless such partnership is registered as a partnership of public accountants under section 19 of this act or as a partnership of certified public accountants under section 17 of this act and all of such partnership's offices in this state for the practice of public accounting are maintained and registered as required under section 20.

(e) No person or partnership shall assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant", "licensed public accounant", "public accountant", or any of the abbreviations "CA", "EA", "RA", or "LA", or similar abbreviations likely to be confused with "CPA"; provided, however, that anyone who holds a current license issued under section 21 of this act and all of whose offices in the state for the practice of public accounting are maintained and registered as required under section 20 may

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hold himself out to the public as an "accountant" or "auditor", as provided in subparagraphs (a), (b), (c) and (d); and provided, further, that a foreign accountant registered under section 16 who holds a current license issued under section 21 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under section 20 may use the title under which he is generally known in this country, followed by the name of the country from which he received his certificate, license or degree.

(f) No corporation shall assume or use the title or designation "certified public accountant", "licensed public accountant", or "public accountant", or "accountant"; nor shall any corporation assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant" or "licensed public accountant", "public accountant", or any of the abbreviations "CPA", "PA", "CA", "EA", "RA", "LA", or similar abbreviations likely to be confused with "CPA".

(g) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business, with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement, or to any opinion on, report on, or certificate to any accounting or financial statement, unless he holds a current license issued under section 21 of this act, and all of his offices in this state for the practice of public accounting are maintained and registered under section 20; provided, however, that the provisions of this subsection shall not prohibit any officer, employee, partner or principal or any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title or office which he holds in said organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.

(h) No person shall sign or affix a partnership name with any wording indicating that it is a partnership com-

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posed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement, unless the partnership is registered under this act, and all of its offices in this state for the practice of public accounting are maintained and registered as required under section 20.

(i) No person shall sign or affix a corporate name with any wording indicating that it is a corporation performing services as accountants or auditors or composed of accountants or auditors or persons having expert knowledge in accounting or auditing to any accounting or financial statement or to any report on or certificate to any accounting or financial statement.

(j) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or in conjunction with the designation "and Company", or "and Co." or a similar designation if, in any such case, there is in fact no bona fide partnership registered under sections 17 or 19 of this act; provided that a sole proprietor or partnership lawfully using such title or designation in conjunction with such names or designation on the effective date of this act, may continue to do so if he or it otherwise complies with the provisions of this act; and provided, further, that it shall be lawful for a sole proprietor to continue the use of the deceased's name in connection with his business for a reasonable period of time after the death of a former partner.

Exceptions—acts not prohibited.

Section 27. **Exceptions. Acts not Prohibited.** Nothing contained in this act shall prohibit any person not a certified public accountant or licensed public accountant from serving as an employee of, or an assistant to, a certified public accountant or a licensed public accountant holding a license to practice under section 21 or partnership composed of certified public accountants or licensed public accountants registered under this act or a foreign accountant registered under section 16 of this act; provided that such employee or assistant shall not issue any accounting or financial statement over his name.

Nothing contained in this act shall prohibit a certified public accountant or a licensed public accountant of an-

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other state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accounting in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; provided, that such temporary practice is conducted in conformity with the regulations and rules of professional conduct promulgated by the board.

Misdemeanors—penalty.

Section 28. **Misdemeanors. Penalty.** Any person who violates any provision of section 26 of this act shall be guilty of a misdemeanor.

Privileged communications.

Section 29. **Privileged communications.** Except for permission of the client or person or firm or corporation engaging him or the heirs, successors or personal representatives of such client or person or firm or corporation, and except for the expression of opinions on financial statements, no certified public accountant, licensed public accountant, or employee thereof, shall be required to, nor shall he voluntarily, disclose or divulge information of which he may have become possessed relative to and in connection with any professional services as a public accountant. The information derived from or as a result of such professional services shall be deemed confidential and privileged. Provided, however, that the provisions of this paragraph shall not apply to the testimony of a public accountant given pursuant to subpoena in a court of competent jurisdiction.

License fees exclusive.

Section 30. **License Fees Exclusive.** No license fees shall be imposed as a condition upon the practice of public accountancy, other than those provided for in this act.

Construction.

Section 31. **Construction.** If any provision of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of the act and the application of such provision to others or other circumstances shall not be affected thereby.

Repealing clause.

Section 32. **Repeal Provisions.** Sections 66-1801, 66-1802, 66-1803, 66-1804, 66-1805, 66-1806, 66-1807, 66-1809, 66-1810, 66-1811, and 66-1812, Revised Codes of Montana, 1947, and all other acts or parts of acts in conflict herewith are hereby repealed; provided, however, that nothing in this act contained shall invalidate or affect any action taken under any law in effect prior to the effective date

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hereof, nor shall it invalidate or affect any proceeding instituted under such law before the effective date hereof.

Approved: February 26, 1969.

CHAPTER 119

An Act Providing That a Surviving Spouse May Withdraw Funds from Financial Institutions Without Probate Proceedings in Certain Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Surviving spouse may withdraw funds from financial institutions without probate proceedings—when.

Section 1. Whether a person dies testate or intestate, and irrespective of the character of his or her property, if the value of the estate does not exceed five thousand dollars ($5,000), the spouse of the decedent may collect from any bank, banking institution, savings and loan association or credit union, any moneys held to the credit of the decedent not to exceed the total sum of one thousand dollars ($1,000), without procuring letters testamentary or of administration, upon furnishing such bank or organization with an affidavit showing the right of the affiant to receive such money.

Discharge of bank.

Section 2. The receipt of such affiant or affiants shall constitute sufficient acquittance for the payment of money made pursuant to the provisions of this act, and shall fully discharge such person, representative, officer, bank, institution, corporation or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. But such payment shall not preclude administration of the estate of the decedent when necessary to enforce payment of the decedent's debts.

Approved: February 26, 1969.

CHAPTER 120

An Act Requiring Rules Adopted by the State Fire Marshal to Be Reasonable and Providing a Penalty for a Violation of a Rule Adopted by the State Fire Marshal; Amending Section 82-1202.1, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-1202.1, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-1202.1. **Rules promulgated by state fire marshal——adoption of other standards**—*providing for a penalty for violation.* (1) Rules promulgated by the state fire marshal by authority of section 82-1202, R.C.M. 1947, shall *be reasonable and calculated to effect the purposes of this act. They shall include but not be* limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of flammable finishes; explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; flammable motion picture film, combustible fibres; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards. Rules—standards—penalty for violation.

(2) Standards of the National Fire Protection Association, United States Bureau of Standards, American Insurance Association Standards may be adopted in whole or in part by reference.

(3) Any person violating any rule made under the provisions of this section shall be guilty of a misdemeanor."

Approved: February 26, 1969.

CHAPTER 121

An Act to Amend Section 11-1202, Revised Codes of Montana, 1947, by Providing That Direct or Indirect Purchases by a City or Town of Motor Vehicles, Equipment, Supplies and Materials Priced Over Two Thousand Five Hundred Dollars Be Paid, in the Manner Provided, Within Five Years.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1202, Revised Codes of Montana, 1947, is amended to read as follows:

Contracts—advertisements—limitations—installments—sales of supplies—construction of buildings—purchases from government agencies—exemptions.

"11-1202. **Awarding contracts—advertisements—limitations—installments—sales of supplies—construction of buildings—purchases from government agencies—exemptions.** All contracts *for the purchase of any automobile, truck, or other vehicle or road machinery, or for any other machinery, appartus, appliances, or equipment, or for any materials or supplies of any kind, or for the construction of any building,* for which must be paid a sum exceeding *two thousand five hundred dollars ($2,500.00),* must be let to the lowest responsible bidder after advertisement for bids; provided that no contract shall be let extending over a period of *five (5)* years or more without first submitting the question to a vote of the taxpaying electors of said city or town. Such advertisement shall be made in the official newspaper of the city or town, if there be such official newspaper, and if not it shall be made in a daily newspaper of general circulation published in the city or town, if there be such, otherwise by posting in three (3) of the most public places in the city or town. Such advertisement if by publication in a newspaper shall be made once each week for two consecutive weeks and the second publication shall be made not less than five (5) days nor more than twelve (12) days before the consideration of bids. If such advertisement is made by posting, fifteen (15) days must elapse, including the day of posting, between the time of the posting of such advertisement and the day set for considering bids. The council may postpone action as to any such contract until the next regular meeting after bids are received in response to such advertisement, may reject any and all bids and readvertise as herein provided. The provisions of this section as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot or insurrection, or any other similar emergency, but in such case the council may proceed in any manner which, in the judgment of three-fourths (¾) of the members of the council present at the meeting, duly recorded in the minutes of the proceedings of the council by aye and nay vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the

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proceedings of the council at the time the vote thereon is taken and recorded.

When the amount to be paid under any such contract shall exceed *two thousand five hundred dollars ($2,500.00)* the council may provide for the payment of such an amount in installments extending over a period of not more than *five (5)* years; provided that when such amount is extended over a term of two (2) years at least forty per centum (40%) thereof shall be paid the first year and the remainder the second year, and when such amount is extended over a term of three (3) years, at least one-third (1/3) thereof shall be paid each year, *and if such amount is extended over a term of four (4) years, at least one-fourth (1/4) is to be paid each year, and if such amount is extended over a term of five (5) years, at least one-fifth (1/5) is to be paid each year;* provided that at the time of entering into such contract, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the contract price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

Old supplies or equipment may be sold by the city or town to the highest responsible bidder, after calling for bid purchasers as herein set forth for bid sellers, and such city or town may trade in supplies or old equipment on new supplies or equipment at such bid price as will result in the lowest net price.

Also a city or town may, without bid, when there are sufficient funds in the budget for supplies or equipment, purchase such supplies or equipment from government agencies available to cities or towns when the same can be purchased by such city or town at a substantial saving to such city or town.

All necessary contracts for professional, technical engineering and legal services are excluded from the provisions of this act."

Approved: February 26, 1969.

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CHAPTER 122

An Act to Amend Section 1-804, Revised Codes of Montana, 1947, as Amended, to Provide for Reserve Funds by Airport Governing Bodies in Their Annual Budgets to Allow Resurfacing or Overlaying of Existing Runways Every So Many Years, Based Upon Competent Engineering Estimates, and Providing That Said Funds Shall Be Expended at Least Within Each Ten Year Period; That the Total of Said Funds Shall Not Exceed at any Time a Competent Engineering Estimate of the Cost of Resurfacing or Overlaying Existing Runways, Taxiways and Ramps for Each Said Fund of Any One Airport, Providing for the Investment of Said Funds in Interest Bearing Deposits in a State or National Bank Insured by the F.D.I.C. or Obligations of the United States, and Providing That Said Interest Earned From Such Investments Shall Be Credited to the Operations and Maintenance Budget of Said Airport Governing Body and Declaring that Said Provisions Are Necessary Notwithstanding Other Budget Control Measures Due to the Uniqueness of the Subject Matter and Are in the Interest of the Public Health and Safety.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 1-804, Revised Codes of Montana, 1947, as amended, is amended to read as follows:

Tax levy for establishment and operation of airports.

"1-804. **Tax levy for establishment and operation of airports.** For the purpose of establishing, constructing, equipping, maintaining and operating airports and landing fields under the provisions of this act the county commissioners *or* the city or town council may each year assess and levy in addition to the annual levy for general administrative purposes, a tax of not to exceed two (2) mills on the dollar of taxable value of the property of said county, city or town. In the event of a jointly established airport or landing field, the county commissioners and the council or councils involved shall determine in advance the levy necessary for such purposes and the proportion each political subdivision joining in the venture shall pay, based upon the benefits it is determined each shall derive from the project. Provided, that if it be found that the levy hereby authorized will be insufficient for the purposes herein enumerated, the commissioners and councils acting

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are hereby authorized and empowered to contract an indebtedness on behalf of such county, city or town, as the case may be, upon the credit thereof by borrowing money or issuing bonds for such purposes, provided that no money may be borrowed and no bonds may be issued for such purpose until the proposition has been submitted to the taxpayers affected thereby, and a majority vote to be cast therefor, *except that for the purpose of establishing a reserve fund to resurface, overlay, or improve existing runways, taxiways and ramps, said governing bodies may set up annual reserve funds in their annual budget, provided said reserve is approved by the governing bodies during the normal budgeting procedure. Provided further that the necessity to resurface or improve said runways by overlays or similar methods every so many years is based upon competent engineering estimates, and provided that said funds are expended at least within each ten (10) year period. Said fund shall not exceed at any time a competent engineering estimate of the cost of resurfacing or overlaying the existing runways, taxiways and ramps, of any one airport for each said fund. The governing body of said airport, if in its judgment deems it advantageous, may invest the fund in any interest bearing deposits in a state or national bank insured by the F.D.I.C. or obligations of the United States of America, either short-term or long-term. Interest earned from such investments shall be credited to the operations and maintenance budget of said airport governing body. The above provisions, notwithstanding other budget control measures, and due to the uniqueness of the subject matter, and are hereby declared necessary in the interests of the public health and safety.*"

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved: February 26, 1969.

CHAPTER 123

The Dredge Mining Regulation and Land Preservation Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is hereby declared to be the policy of the state of Montana to protect its lands, streams and water- **Policy.**

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courses from destruction by dredge mining and preserve the same for the enjoyment, use and benefit of all of the people, and that clear and unpolluted water in the streams, rivers and lakes of Montana suitable for recreational, domestic, industrial, commercial and agricultural purposes is in the public interest.

"Dredge mining."

Section 2. For the purposes of this act dredge mining shall mean mechanical operations that result in the recovery of minerals in or near a stream or riverbed, with the use of a dredge boat or sluice washing plant, whether fed by bucket line as part of such dredge or by separate dragline, hydraulic pressure, vacuum, suction or any other supply capable of moving ten (10) cubic yards of earth or rock material per day.

Specific exclusions.

Section 3. This act shall not be construed to include any mechanical operation primarily intended for open pit mining, strip coal mining, irrigation, extraction of gravel for construction and/or road building purposes, or agricultural purposes.

State board of health designated administrative agency.

Section 4. (a) The state board of health is hereby designated the administrative agency of this act and shall have the power and duty to adopt rules and regulations for its administration in accordance with the intent and purposes thereof, and to employ personnel necessary to act upon its behalf and to carry out this law effectively.

(b) It shall be the duty of the board to enforce all of the provisions of this act. If the board fails to enforce such provisions, any citizen of this state may commence an action in the appropriate court requiring the board to perform its duty.

(c) The board may establish such rules and regulations as it deems necessary to define the terms and carry out the purposes of this act.

Act applies to public and private property.

Section 5. The requirements of this act shall be applicable to dredge mining operations upon all property located within this state whether publicly or privately owned. It shall be unlawful for any person to conduct dredge mining operations within this state without first obtaining a permit as herein provided.

Application for permit to conduct dredge mining operation.

Section 6. (a) Before any person may conduct a dredge mining operation within this state he shall file with the board an application for a permit upon a form pro-

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vided by the board and shall pay an application fee of one hundred dollars ($100) for each ten (10) acres or fraction thereof involved in such application. Such application shall include an accurate description of the land proposed to be dredged by legal subdivisions and shall specify the number of acres involved, and shall include a plan specifying how the operator intends to satisfy sections 8 and 9 of this act.

Approval by owner.

(b) If any applicant for such dredge mining operations is not the owner of the lands described in the application or any part thereof, the owner of such lands shall endorse approval upon the application. No permit shall be issued in the absence of such approval by the owner of lands described in the application.

Notice.

(c) Within ten (10) days after filing of an application for a permit, the director on behalf of the board shall issue a notice specifying the date of filing, the lands and waters affected, the name and address of the applicant and stating that anyone desiring to protest the issuance of the permit may file a written protest within forty (40) days after the date of first publication of such notice. The director shall cause the notice to be published within ten (10) days after the date of filing, in a newspaper published within the county where the dredging operation is proposed, or in the event no newspaper is printed in that county, then in a newspaper of general circulation therein. This notice shall be published once a week for three (3) consecutive weeks.

Protest.

(d) Any person, association, corporation or agency of the state or the federal government may, within the time allowed, file with the board a written protest against the granting of such application. The protest shall be signed by the protestant with his address and shall clearly set forth his objections to the approval of the application.

Findings of board required.

(e) The board or its agents may conduct such investigations as it deems desirable for the purpose of determining whether the permit should be approved. In determining whether an application for permit shall be approved or disapproved, the board shall consider its rules and regulations, the provisions of this chapter and other applicable laws. No application shall be approved unless the board specifically finds that:

(1) Granting of the application will not be detrimental

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to the present and future economy of the area or the state, and

(2) Granting of the application will not have an adverse effect upon the natural habitat and environment of fish and game or other wildlife of the area or the state, and

(3) Granting of the application will not be detrimental to or cause undue damage to the natural resources of the area or the state, and

(4) Granting of the application will not have an adverse effect upon present and future tourist and recreational value of the area or the state, and

(5) Granting of the application will not have an adverse effect upon the future assessed value of the area or the state, and

(6) Granting of the application is in the public interest.

Additional hearings.

(f) Upon making an initial determination to approve or disapprove the application for permit, the board shall notify the applicant and all protestants by mailing notice of its intended action to the addresses appearing on the application and the protests. If the applicant or any protestant desires to request further hearings written requests for such must be made to the board within thirty (30) days of the mailing of such notice. If no request is made, the proposed findings shall become final and nonreviewable. If such further hearing be so requested, it shall then be deemed a contested case, and a hearing conducted.

(g) No permit shall be finally granted except upon written approval by a two-thirds (2/3) majority of the membership of the state board of health.

Board requirements.

Section 7. (a) No permit shall be issued to any person to conduct dredge mining operations, until such person shall file with the board an initial surety bond in the sum of ten thousand dollars ($10,000) for a specified and particularly-described ten (10) acre tract of the area covered by the permit or for all of the land covered by the permit if the permit covers an area less than ten (10) acres, with sureties acceptable to the board conditioned for the faithful performance by the applicant for all of the requirements of this act, relative to land and watercourse

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restoration. Prior to conducting dredge mining operations on any of the permit area not covered by the initial bond, the person to whom the permit has been issued shall file with the board a similar bond in the sum of ten thousand dollars ($10,000) for each specified and particularly described ten (10) acre tract of the permit area or for the remaining area covered by the permit where less than ten (10) acres remain in the permit area. In lieu of such surety bond cash may be deposited with the board in the sum computed in the same manner as hereinabove set forth, to be retained as security for the faithful performance by the applicant of the requirements of this act.

(b) The permit shall describe the land and acres involved and may in the discretion of the board be limited to a lesser area than sought in the application.

(c) Permits issued hereunder are not transferable, and persons to whom such permits are issued shall not transfer nor attempt to transfer them to another.

Return of terrain to natural condition.

Section 8. Where any person conducts a dredge mining operation within the state, it is hereby required that the ground disturbed thereby shall be by such operator smoothed over reasonably comparable with the natural contour of the ground prior to such disturbance. Any watercourse disturbed by such dredging shall be by such operator replaced on meander lines with pool and stream structure conducive to good fish and wildlife habitat and recreational use. The disturbed area shall be replanted as far as reasonably possible to the condition existing prior to dredging.

Construction of settling ponds.

Section 9. Where any person conducts a dredge mining operation where water used in such mining process flows into a stream or river within the state, it is hereby required that such operator shall construct settling ponds of sufficient capacity and character to clarify the water used in the mining process before such water is discharged into the stream. Such settling ponds shall be constructed in such a manner as to prevent sedimentary overflow or other pollution during high water.

Inspections.

Section 10. It shall be the duty of the board in its administration of this act to cause periodic inspections to be made of the operation under such permits to determine

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compliance with this law and to make rules and regulations with respect thereto.

Judicial control.

Section 11. If the board determines that anyone holding a permit to conduct dredging operations has violated any of the terms of this act, the board is empowered to petition the district court of the state of Montana for authority to terminate the permit.

Discharge of bond.

Section 12. (a) The surety bond required by this act to be given by a permit holder shall be exonerated and discharged upon the completion of such dredge mining operation and upon certification by the board that the permit holder has fully complied with the requirements of this act and the rules and regulations of the board.

(b) In the event a permit holder fails to comply with the requirements of this act and the rules and regulations of the board then the applicable bond of such permit holder shall be forfeited to the state of Montana in such amount and to such extent as the board shall estimate and determine will be necessary to pay all cost and expenses of restoring the lands and beds of streams damaged by dredge mining of the defaulting permit holder. Such forfeited funds are to be administered through a special fund by the board to restore the lands and beds of streams damaged by dredge mining of such defaulting permittee. All funds from all bonds forfeited are hereby perpetually appropriated to a special fund to be administered by the board for the restoration of such lands and watercourses damaged in dredge mining operations.

(c) No forfeiture of bond of a permit holder shall be made until after hearing duly noticed to the permit holder and the surety upon the bond and held as provided in section 11 hereof.

Violations and penalty.

Section 13. (a) Any dredge mining operator or permit holder who fails to comply with any of the requirements of this act or of the rules and regulations and orders of the board made hereunder is guilty of a misdemeanor.

(b) Any dredge mining operator or permit holder who fails to meet the land and watercourse restoration requirements of this act within one hundred eight (180) days after the disturbance of the ground by dredging has occurred or such longer period of time not to exceed one (1) year as

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may be granted by the board, is guilty of a misdemeanor. Each subsequent day of failure to comply after the expiration of one hundred eighty (180) days or additional time period as extended by the board constitutes a separate offense.

(c) In addition to the penal provisions any person, association, corporation or agency of the state or federal government may apply to the board protesting any violation of this act and the board shall thereupon make an appropriate investigation.

(d) The penal and administrative provisions of this act are additional and cumulative to all rights of action at law or equity that may exist in any person, association, corporation or agency of the state or federal government to enjoin wrongful dredge mining operations or recover damages resulting therefrom.

Judicial review.

Section 14. Any person who is aggrieved by any final decision of the board under this act shall be entitled to judicial review by the district court and appeal to the supreme court.

Saving clause.

Section 15. If any word, sentence, clause, section or part of this act should be declared unconstitutional, it shall not affect the balance of the act, it being the intention of the people to have passed the remaining portion of the act.

Approved: February 26, 1969.

CHAPTER 124

An Act to Amend Section 59-1105, R.C.M. 1947, to Provide That Interest and Income Earned in Excess of That Needed for the Purposes Set Forth in Subdivision (b) of This Section, May Be Credited to the Earmarked Revenue Funds of the State Agency for Purposes of Administering the State Agency.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-1105, R.C.M. 1947, is amended to read as follows:

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Contribution account.

"59-1105. **Contribution account.** (a) There is hereby established, in place of the fund known as the contribution fund, a contribution account in the agency fund. Such account shall consist of and there shall be deposited in such account:

(1) all contributions, interest and penalties collected under sections 59-1103.1 and 59-1104;

(2) all moneys appropriated thereto by the legislative assembly of the state of Montana; and

(3) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the account and all other moneys received for the account from any other source. All moneys in the account shall be mingled and undivided. Subject to the provisions of this act, the state agency is vested with full power, authority and jurisdiction over the account, including all moneys and property or securities belonging thereto; it shall invest the same in investments of the same character as are permitted by section 79-1202 of this code for the investment of moneys in the long term investment fund and shall credit all interest and income heretofore or hereafter earned thereon in excess of that which, in the judgment of the state agency, may be needed for the purposes set forth in subdivision (b) of this section, to the earmarked revenue fund *or funds of the state agency,* to be used by it either to defray the cost of administering *the state agency,* or for distribution pro rata to the contributing state departments, political subdivisions, school districts and instrumentalities, as it may determine, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this act.

(b) The contribution account shall be used and administered exclusively for the purpose of this act. Subject to the provisions of subdivision (a) of this section, withdrawals from such account shall be made for, and solely for (A) payment of amounts required to be paid to the secretary of the treasury of the United States pursuant to an agreement entered into under section 59-1103; (B) payment of refunds provided for in section 59-1103.1; and (C) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

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(c) From the contribution account the custodian of the account shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 59-1102.1 and the Social Security Act.

(d) The treasurer of the state shall pay all warrants drawn upon the state agency in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

(e) Each department of the state shall include in its operating budget for the next succeeding fiscal year, prepared and delivered to the controller in accordance with the provisions of law, an estimate of the amount which it will be required to contribute to the contribution account.''

Section 2. This act is effective on its passage and approval. **Effective immediately.**

Approved: February 26, 1969.

CHAPTER 125

An Act to Amend Section 15-2272, R.C.M. 1947, Relating to the Sale of Assets of a Corporation Other Than in the Regular Course of Business.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 15-2272, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"15-2272. **Sale of assets other than in regular course of business.** A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as may be authorized in the following manner: **Sale of assets other than in regular course of business.**

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(a) The board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than thirty (30) days before such meeting, in the manner provided in this act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition.

(c) At such meeting the shareholders may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require the affirmative vote of the holders of two-thirds (2/3) of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event such authorization shall require the affirmative vote of the holders of two-thirds (2/3) of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon.

(d) After such authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon such sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

(e) The shareholders of a corporation may, by a vote of the holders of the number of shares required to change the articles of incorporation of such corporation at a meeting duly called upon not less than thirty (30) days' notice, amend the articles of incorporation to give the board of directors general authority to sell, lease, exchange or otherwise dispose of all, or substantially all, of the property and assets, with or without the good will, of a corporation, upon such conditions, and for such consideration, which may consist in whole or in part of money or prop-

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erty, real or personal, including shares of any other corporation, domestic or foreign, as shall be authorized by the board of directors.''

Approved: February 26, 1969.

CHAPTER 126

An Act Amending Section 11-201, R.C.M. 1947 to Permit a Third Class City to Remain a Third Class City or Become a Second Class City When Population Is Between Five Thousand and Seven Thousand Five Hundred People.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-201, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-201. **Cities and towns classified.** Every city having a population of ten thousand or more is a city of the first class; every city having a population of less than ten thousand and more than five thousand is a city of the second class; every city having a population of less than five thousand and more than one thousand is a city of the third class; and every municipal corporation having a population of three hundred and less than one thousand is a town; *provided, that every municipal corporation having a population of more than five thousand and less than seven thousand five hundred may by resolution adopted by the city council pursuant to sections 11-301 to 11-305 be either a second class city or a third class city; and* provided, that every municipal corporation having a population of more than one thousand and less than twenty-five hundred, may by resolution adopted by the city or town council, as the case may be, pursuant to sections 11-301 to 11-305, be either a city or town. Nothing in this act shall be construed as affecting the status or classification of any existing city or town.'' Cities and towns classified.

Approved: February 26, 1969.

CHAPTER 127

An Act Pertaining to the Registration of Motor Vehicles; Requiring Removal of License Plates From Motor Ve-

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hicles Upon Transfer of Ownership, Authorizing Transferor to Transfer License Plates From Original Motor Vehicle to Another Motor Vehicle Acquired During Current Registration Year Upon Proper Application and Payment of Fees and Taxes, if Any; Requiring New Application and Registration for All Motor Vehicles Transferred Within Ten (10) Days; and Amending Sections 32-3203, 53-106, 53-106.6, 53-107, 53-108, 53-115 and 53-119, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Motor vehicle registration expires upon transfer.

Section 1. Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle shall expire and it shall be the duty of the transferor immediately to remove the license plates from the vehicle.

Application for registration.

Section 2. Should the transferor make application for the registration of another motor vehicle at any time during the remainder of the current registration year, he may file an application, in the office of the county treasurer where the motor vehicle is taxable, upon a form to be prepared and furnished by the registrar of motor vehicles, accompanied by the original certificate of registration, for the transfer of the license plates. The transfer of the license plates from the motor vehicle for which originally issued to a motor vehicle acquired by the same person in whose name the original license plates were issued shall be made within ten (10) days from date of acquiring the vehicle. The use of the license plates shall not be legalized until proper transfer of license plates has been made.

Registration by new owner.

Section 3. The new owner of the transferred motor vehicle shall, before operating or driving the same upon the public highways of this state, make application and pay the registration fees and taxes as provided by section 53-114, as if the same was being registered for the first time in that registration year.

Amending clause.

Section 4. Section 32-3203, R.C.M. 1947, enacted as section 6-103, Chapter 197, Laws of 1965, is amended to read as follows:

License is transferable.

Section 32-3203. **License** *is* **transferable.** The certificate, registration or license issued hereunder is transferable *by the licensee to another truck, truck tractor, trailer, semitrailer, lowboy trailer, pole trailer, housetrailer, or*

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passenger car upon transfer of ownership of such truck, truck tractor, trailer, semitrailer, lowboy trailer, pole trailer, housetrailer, or passenger car to a replacement vehicle of the same type. If a smaller vehicle is purchased, there shall be no refund."

Amending clause.

Section 5, Section 53-106, R.C.M. 1947, is amended to read as follows:

Number plates—all motor vehicles.

"53-106. **Number plates.** (1) Every motor vehicle which shall be driven upon the streets or highways of this state shall display both front and rear a number plate, bearing the distinctive number assigned such vehicle by the registrar of motor vehicles. Such number plates shall be in eight series: one series for owners of motor cars, one for owners of motor vehicles of the motorcycle type, one for trailers, one for trucks, one for dealers in vehicles of the motorcycle type, one for franchised dealers in new motor cars (including trucks and trailers) or new and used motor cars (including trucks and trailers) which shall bear the distinctive letter 'D' or the word 'DEALER', one for dealers in used motor cars only (including used trucks and trailers) which shall bear the distinctve letters 'UD' or the letter 'U' and the word 'DEALER', and one for dealers in trailers and/or semitrailers (new or used) which shall bear the distinctive letter 'DTR' or the letters 'TR' and the word 'DEALER', and all such markings for the aforementioned kinds of dealers' plates shall be placed on the number plates assigned thereto in such position thereon as the registrar may designate. All number plates for motor vehicles shall be issued every other year, shall bear a distinctive marking, and shall be furnished by the state. In alternate years the registrar shall provide nonremovable stickers bearing appropriate registration numbers which shall be affixed to the license plates in use.

Motor cars.

(2) In the case of motor cars, number plates shall be of metal six inches wide and twelve inches in length, the outline of the state of Montana shall be used as a distinctive border on such license plates, and the word 'Montana' wth the year shall be placed across the bottom of the plate. Such registration plate shall be treated with a reflectorized background material according to specifications prescribed by the registrar. An additional fee of fifty (50) cents per year for each registration of a vehicle shall be added to the registration fee. Revenue from this fee shall be for-

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warded by the respective county treasurers to the state treasurer for deposit in the motor vehicle recording account of the earmarked revenue fund. Disbursements from the motor vehicle recording account shall be made by warrant drawn by the registrar. The distinctive registration numbers shall begin with a number one (1) or with a letter-number combination such as 'A 1' or 'AA 1', or any other similar combination of letters and numbers and be numbered consecutively for each series of plates. The distinctive registration number or letter-number combination assigned to the vehicle shall appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal base line, and the county number shall be separated from the distinctive registration number by a dash or a dot unless a letter-number combination is used. The dimensions of such numerals and letters shall be determined by the registrar of motor vehicles, provided that all county and registration numbers shall be of equal height.

Tax exempt motor vehicles.

(3) For the use of tax-exempt motor vehicles, in addition to the markings herein provided, number plates shall have thereon the following distinctive markings:

For vehicles owned by the state the registrar of motor vehicles may designate the prefix number for the various state departments, and all numbered plates issued to state departments shall bear the words 'State Owned' and no year number will be indicated thereon as these numbered plates will be of a permanent nature, and will be renewed by the registrar of motor vehicles at such time when the physical condiiton of numbered plates require same. For vehicles owned by the counties, municipalities and school districts and used and operated by officials and employees thereof in line of duty as such, and for vehicles on loan from the United States government or the state of Montana, to, or owned by, the civil air patrol and used and operated by officials and employees thereof in the line of duty as such, there shall be placed on the number plates assigned thereto, in such position thereon as the registrar may designate, the letter 'X' or the word 'EXEMPT'. Distinctive registration numbers for plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and school districts situated within each of said counties shall begin with number 1 and be numbered consecutively.

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Trucks and trailers.

(4) On all number plates assigned to motor vehicles of the truck and trailer type, other than tax-exempt trucks and trailers, there shall appear the letter 'T' or the word 'TRUCK' for plates assigned to trucks and the letters 'TR' or the word 'TRAILER' for plates assigned to trailers, and housetrailers.

Number plates issued to a passenger car, truck, or trailer may be transferred only to a replacement passenger car, truck, or trailer.

County designation.

(5) For the purpose of this act, the several counties of the state shall be assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56; any new counties shall be assigned numbers by the registrar of motor vehicles as they may be formed, beginning with the number 57.''

Amending clause.

Section 6. Section 53-106.6, R.C.M. 1947, is amended to read as follows:

Special plates—how affixed to car—sale or transfer of auto—revocation or expiration of radio license.

"53-106.6. **Special plates—how affixed to car—sale or transfer of auto—revocation or expiration of radio license.** The lettered license plates, as herein provided, are to replace the regular license plates on the motor vehicle owned by said amateur radio licensee for such period of time as the amateur radio license is in force under the federal communications commission and the special license issued hereunder is in force, but no longer. Whenever such official amateur radio license is revoked or expires for whatever reason, such license plate shall be removed immediately by the owner of the motor vehicle and the regular plates again placed or mounted on the motor vehicle as in other cases. When the motor vehicle is sold or otherwise

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transferred, the owner and holder of valid official amateur radio station and operator's license shall have the right to transfer the lettered plates to another motor vehicle owned by him upon such reasonable conditions as may be prescribed by the registrar. On the revocation or expiration of the amateur radio station and operator's licenses, the lettered license plates as issued shall be returned and surrendered to the registrar of motor vehicles."

Amending clause.

Section 7. Section 53-107, R.C.M. 1947, is amended to read as follows:

Certificates of registration and ownership—contents, issuance, entry, assignment of numbers—owner's registration receipt to be signed, carried and exhibited on demand.

"53-107. (1758) **Certificates of registration and ownership—contents, issuance, entry, assignment of numbers—owner's registration receipt to be signed, carried and exhibited on demand.** Upon completion of the application for registration, in quintuplet, on forms furnished by the registrar of motor vehicles, the county treasurer shall issue to the applicant two (2) copies of the application marked 'Owner's Certificate of Registration and Tax Receipt', one (1) of which shall be marked 'file copy', and forward one (1) copy of the application to the registrar of motor vehicles who shall cause to be entered the information contained in said application upon the corresponding records of his office and shall furnish the applicant a certificate of ownership, and said owner shall at all times retain possession of the certificate of ownership, except when the same is being transmitted to and from the registrar of motor vehicles for endorsement or cancellation. In the event the said certificate of ownership be in the possession or under the control of any person other than the person entitled to operate and possess the motor vehicle the same must be surrendered to the person entitled to operate and possess such motor vehicle, upon demand, and refusal shall constitute a misdemeanor. At the same time, he shall issue to any conditional sales vendor, or other person holding the legal title to the vehicle, or any mortgagee thereof, or other lien holder, a statement of the filing of such conditional sales contract, mortgage or other lien, said certificate of registration and ownership shall meet the following requirements:

The certificate of registration and the certificate of ownership shall each contain upon the face thereof: (1) the date issued, (2) the registration number assigned to the owner and the vehicle, (3) the name and complete address

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of the owner and the name and complete address of any conditional sales vendor, and also the name and address of any other lienor as shown by said application, (4) a description of the registered vehicle including the year built and serial number, if any, (5) any lien against such motor vehicle and the amount due at the date of registration, and such other statement of facts as may be determined by the registrar.

Upon receipt of the application the registrar shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county treasurer to effectively secure the correction of such error, who shall return the same to the registrar of motor vehicles.

The reverse side of the certificate of ownership shall contain a form of notice to the registrar of a transfer of title or interest of the owner and such other statement on forms as may be determined by the registrar.

File copy of owner's certificate of registration receipt to be signed, carried, and exhibited on demand. Every owner, upon receiving a registration receipt shall write his signature thereon with pen and ink in the space provided. Every such registration receipt or a notarized photostatic copy thereof or a duplicate thereof furnished by the registrar of motor vehicles shall at all times be carried in the vehicle, to which it refers or shall be carried by the person driving or in control of such vehicle, who shall display the same upon demand of a police officer or any officer or employee of the registrar of motor vehicles or the highway department.

The term 'motor vehicle' includes automobile, truck, motorcycle, semitrailer, trailer and trailer-house.

Any trailer, semitrailer or trailer-house which does not have a manufacturer's or other identifying number thereon shall be assigned an identification number by the registrar upon registration of such motor vehicle. The owner or other person lawfully in possesssion of such motor vehicle shall stamp such number so assigned by the registrar upon the principal right frame member of said motor vehicle near the front end thereof where it may be clearly and readily seen, and said stamping shall be promptly accomplished after notice of the assigned number by the registrar. The

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registrar may withhold registration until satisfactory proof, by affidavit, of such stamping is filed with him.

Any person violating this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding twenty-five dollars ($25.00)."

Amending clause.

Section 8. Section 53-108, R.C.M. 1947, is amended to read as follows:

Renewal of registration.

"53-108. (1758.1) **Renewal of registration.** Every vehicle registration under this act shall expire on December thirty-first of each year and shall be renewed annually upon application and payment of license fees, as provided in sections 53-114 and 53-122, such renewal to take effect on the first day of January of each year. The certificate of registration issued hereunder shall be valid during the registration year only for which issued, and the certificates of ownership shall remain valid until canceled by the registrar of motor vehicles upon a transfer of any interest shown therein and need not be renewed annually. Upon annual renewal, whenever the legal owner of the vehicle is other than the registered owner, the registrar of motor vehicles shall immediately notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year.

The owner of a vehicle registered under the provisions of this act shall be entitled to operate such vehicle between January first and February fifteenth without displaying the registration certificate of the current year, on condition that such owner shall, during said period, display upon such vehicle the number plates or plate assigned thereto for the previous year.

Any purchaser of a motor vehicle from a duly licensed motor vehicle dealer which has not been registered or reregistered for the current year may during the time *the* certificate of ownership thereto is in the process of being transferred in the office of the registrar of motor vehicles, upon making an affidavit to that effect upon a form prescribed by the registrar of motor vehicles and upon the payment of a fee of two dollars ($2.00) to be collected by the county treasurer and remitted to the registrar of motor vehicles, obtain from the county treasurer of the county in which said vehicle is subject to tax a temporary windshield sticker of such size, color and design as the registrar of

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motor vehicles may prescribe, to be validated by the county treasurer for a period of thirty (30) days from the date of issuance, and such purchaser, upon displaying such sticker on the lower right-hand corner of the windshield of such motor vehicle shall be entitled to operate such vehicle during the period for which such windshield sticker has been validated without displaying the registration certificate or number plates or plate for the current year. Provided, however, the county treasurer shall not sell, or no person shall purchase more than one (1) thirty (30) day temporary windshield sticker for any vehicle, the ownership of which has not changed since the issuance of the previous thirty (30) day windshield sticker. Provided, further, however, that any purchaser of a new *or used* motor vehicle from a duly licensed motor vehicle dealer shall have the grace period of *ten (10)* days from the date of purchase to make such application for registration and obtain registration plates, and it shall not be a violation of this chapter or any other law for such purchaser to operate such new *or used* motor vehicle upon the streets and highways of this state without a certificate of registration and registration plates during the said *ten*-day period; providing further that such purchaser must have in his possession a valid bill of sale or other satisfactory evidence of ownership."

Amending clause.

Section 9. Section 53-115, R.C.M. 1947, is amended to read as follows:

Time for making application.

"53-115. **Time for making application.** Registration must be renewed annually and license fees paid annually. All registrations expire on December 31 of the year in which they are issued and application for registration, or reregistration, must be filed with the county treasurer as aforesaid not later than February 15 of each year. *Provided, however, that in the event of transfer of a motor vehicle during the registration year, such motor vehicle shall be reregistered and relicensed as provided by statute."*

Amending clause.

Section 10. Section 53-119, R.C.M. 1947, is amended to read as follows:

Must have license plates.

"53-119. **Must have license plates.** Except as otherwise provided herein, no person shall operate a motor vehicle upon the public highways of this state without a license and unless such vehicle shall have been properly

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registered and shall have the proper number plates conspicouously displayed, one (1) on the front and one (1) on the rear of such vehicle, each securely fastened so as to prevent the same from swinging and unobstructed from plain view, except that trailers and semitrailers shall have but one (1) number plate conspicuously displayed on the rear. No person shall display on such vehicle at the same time any number assigned to it under any motor vehicle law, except as in this act otherwise provided. No person shall purchase or display on such vehicle any license plate bearing the number assigned to any county as provided in section 53-106, other than the county of his permanent residence at the time of application for *registration.* Provided, however, that the owner of any motor vehicle requiring a license plate on any motor vehicle used in the public transportation of persons or property may make application therefor in any county through which said motor vehicle passes in its regular scheduled route, and the license plate so issued bearing the number assigned to said county may be displayed on said motor vehicle in any *other* county of the state. It is further provided that it shall be unlawful to use license plates issued to one (1) vehicle on any other vehicle, trailers or semitrailers *unless legally transferred as provided by statute,* or repainting old license plates to resemble current license plates and any person violating these provisions shall be deemed guilty of a misdemeanor and shall be subject to the penalty as set out in section 53-132."

Approved: February 26, 1969.

CHAPTER 128

An Act to Authorize the Incorporation of Development Credit Corporations for the Purpose of Promoting, Developing, and Advancing the Prosperity and Economic Welfare of the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Purposes.

Section 1. **Purpose.** The purposes of the corporation shall be to promote, stimulate, develop, and advance the business prosperity and economic welfare of the state of Montana and its citizens; to encourage and assist through

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loans, investments, or other business transactions, in the location of new business and industry in this state and to rehabilitate and assist existing business and industry; and so to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of this state, provide maximum opportunities for employment, encourage thrift and improve the standards of living of the citizens of this state; similarly, to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural, and recreational developments in this state; and to provide financing for the promotion, development, and conduct of all kinds of business activity in this state.

In furtherance of such purposes and in addition to the powers conferred on business corporations by the provisions of Title 15 of the Revised Codes of Montana 1947, the corporation shall, subject to the restrictions and limitations herein contained, have the additional powers and functions enumerated herein.

Section 2. **Definitions.** As used in this act, the following words and phrases, unless differently defined or described, shall have the meanings and references as follows:

"Corporation."

(1) "Corporation": A Montana development credit corporation created under this act.

"Financial institution."

(2) "Financial Institution": Any banking corporation or trust company, building and loan association, insurance company or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds.

"Member."

(3) "Member": Any financial institution authorized to do business within this state which shall undertake to lend money to a corporation created under this act, upon its call, and in accordance with the provisions of this act.

"Board of directors."

(4) "Board of Directors": The board of directors of the corporation created under this act.

"Loan limit."

(5) "Loan Limit": For any member, the maximum amount permitted to be outstanding at one time on loans

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made by such member to the corporation, as determined under the provisions of this act.

Incorporators, general powers, capital stock, and articles of incporation.

Section 3. **Incorporators, General Powers, Capital Stock, and Articles of Incorporation.** Nine (9) or more persons, a majority of whom shall be residents of this state, who may desire to create a development credit corporation under the provisions of this act, for the purpose of promoting, developing, and advancing the prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated in the following manner: such persons shall by articles of incorporation filed in the manner prescribed in Title 15 of the Revised Codes of Montana 1947, under their hands and seals, set forth:

(1) The name of the corporation, which shall include the words "Development Credit Corporation of Montana".

(2) The location of the principal office of the corporation, but such corporation may have offices in such other places within the state as may be fixed by the board of directors.

(3) The purpose for which the corporation is founded, which shall include the following:

(a) To elect, appoint, and employ officers, agents, and employees; to make contracts and incur liabilities for any of the purposes of the corporation; provided, that the corporation shall not incur any secondary liability by way of guaranty or endorsement of obligations of any person, firm, corporation, joint-stock company, association or trust, or in any other manner.

(b) To borrow money from the members, nonmember persons, firms or corporations, and state and federal agencies, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member approval; provided, that no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation shall be secured equally and

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ratably in proportion to the unpaid balance of such loans and in the same manner.

(c) To make loans to any person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith: provided, however, that the corporation shall not approve any application for a loan unless and until the person applying for said loan shall show that he has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.

(d) To participate with any duly authorized private lending agency, and city, state, and federal governmental lending agencies in the making of loans.

(e) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

(f) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations or trusts, and to assume, undertake, or pay the obligations, debts and liabilities of any such person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct, or reconstruct, altar, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments.

(g) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any

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person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

(h) To mortgage, pledge, or otherwise encumber any property, right or thing of value, acquired pursuant to the powers contained in paragraphs (e), (f), or (g), as security for the payment of any part of the purchase price thereof.

(i) To cooperate with and avail itself of the facilities of the State Planning and Economic Development Department and any similar governmental agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the state in the promotion, assistance, and development of the business prosperity and economic welfare of such communities or of this state or of any part thereof.

(j) To accept gifts, donations, bequests, devices, or grants from any person, corporation, association, or governmental agency whether state, federal, or municipal.

(k) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(4) The articles of incorporation shall set forth the amount of total authorized capital stock and the number of shares in which it is divided, the par value of each share, and the amount of capital stock with which it will commence business and, if there is more than one class of stock, a description of the different classes, and the names and post office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription shall be the amount of capital with which the corporation will commence business.

(5) The articles of incorporation may also contain any provision consistent with the laws of this state for the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The articles of incorporation shall be in accordance with the provisions of Title 15, Revised Codes of Montana 1947, so far as consistent with this act.

Certificate of incorporation.

Section 4. **Certificate of Incorporation.** Before the articles of incorporation shall become effective, the secre-

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tary of state must issue a certificate that a copy of the articles containing the required statement of facts has been filed in his office. Thereupon, the persons signing the articles and their associates and their successors and assigns, shall become a body politic and corporate, by the name specified in the articles of incorporation, subject to amendment and dissolution as provided in this act. The incorporators shall have the authority and shall perform such acts and things as required by the provisions of this act, as set forth in Section 3 thereof.

Section 5. **Amendment of Articles of Incorporation.** The articles of incorporation may be amended by the votes of the stockholders and the members of the corporation, voting separately by classes, and such amendments shall require approval by the affirmative vote of two-thirds (⅔) of the votes to which the stockholders shall be entitled and two-thirds (⅔) of the votes to which the members shall be entitled; provided that no amendment which is inconsistent with the general purposes expressed herein, or which eliminates or curtails the obligation of the corporation to make reports as provided in Section 14, shall be made without amendment of this act; and provided, further, that no amendment of the articles of incorporation which increases the obligation of a member to make loans to the corporation, or makes any change in the principal amount, interest rate, maturity date, or in the security or credit position, of any outstanding loan of a member to the corporation, or affects a member's right to withdraw from membership as provided in Section 11, or affects a member's voting rights as provided in Section 7, shall be made without the consent of each member affected by such amendment. Within thirty (30) days after any meeting at which amendment of the articles of incorporation has been adopted, articles of amendment signed and sworn to by the president, treasurer, and a majority of the directors, setting forth such amendment and the due adoption thereof, shall so far as consistent with this act be submitted, as prescribed in Title 15, Revised Codes of Montana 1947, to the secretary of state, who shall examine them and if he finds that they conform to the requirements of this act, shall so certify and endorse his approval thereon. Thereupon, the amended articles of incorporation shall be filed in the office of the secretary of state and no such

Amendment of articles of incorporation.

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amendment shall take effect until such amended articles of incorporation shall have been filed as aforesaid.

Board of directors.

Section 6. **Board of Directors.** The business and affairs of the corporation shall be managed and conducted by a board of directors, a president and treasurer, and such other officers and such agents as the corporation by its bylaws shall authorize. The board of directors shall consist of such number, not less than nine (9), as shall be determined in the first instance by the incorporators and thereafter annually by the members and the stockholders of the corporation. The directors need not be stockholders or members in the corporation. The board of directors may exercise all the powers of the corporation except such as are conferred by law or by the bylaws of the corporation upon the stockholders or members and shall choose and appoint all the agents and officers of the corporation and fill all vacancies in the office of director. The board of directors shall be elected in the first instance by the incorporators and thereafter at each annual meeting of the corporation, or, if no annual meeting shall be held in any year at the time fixed by the bylaws, at a special meeting held in lieu of the annual meeting. At each annual meeting, or at each special meeting held in lieu of the annual meeting, the stockholders shall elect the directors. The directors shall hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after their election and until their successors are elected and qualified unless sooner removed in accordance with the provisions of the bylaws.

Directors and officers shall not be responsibile for losses unless the same shall have been occasioned by the willful misconduct of such directors and officers.

Powers of stockholders and members.

Section 7. **Powers of Stockholders and Members.** The stockholders and the members of the corporation shall have the following powers of the corporation: (a) to determine the number of and elect directors as provided in Section 6 hereof; (b) to make, amend, and repeal bylaws; (c) to amend the articles of incorporation as provided in Section 5; (d) to exercise such other of the powers of the corporation as may be conferred on the stockholders and the members by the bylaws.

As to all matters requiring action by the stockholders

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and the members of the corporation, said stockholders and said members shall vote separately thereon by classes, and except as otherwise herein provided, such matters shall require the affirmative vote of a majority of the votes to which the stockholders present or represented at the meeting shall be entitled and the affirmative vote of a majority of the votes to which the members present or represented at the meeting shall be entitled.

Each stockholder shall have one (1) vote, in person or by proxy for each share of capital stock held by him, and each member shall have one (1) vote, in person or by proxy, except that any member having a loan limit of more than one thousand dollars ($1,000.00) shall have one additional vote, in person or by proxy, regardless of the number of shares owned, for each additional one thousand dollars ($1,000.00) which such member is authorized to have outstanding on loans to the corporation at any one time as determined under paragraph three (3) (b) of Section 10.

First meeting of corporation.

Section 8. **First meeting of Corporation.** The first meeting of the corporation shall be called by a notice signed by three (3) or more of the incorporators, stating the time, place, and purpose of the meeting, a copy of which notice shall be mailed, or delivered, to each incorporator at least five (5) days before the day appointed for the meeting. Said first meeting may be held without such notice upon agreement in writing to that effect signed by all the incorporators. There shall be recorded in the minutes of the meeting a copy of said notice or of such unanimous agreement of the incorporators.

At such first meeting the incorporators shall organize by the choice, by ballot, of a temporary clerk, by the adoption of bylaws, by the election by ballot of directors, and by action upon such other matters within the powers of the corporation as the incorporators may see fit. The temporary clerk shall be sworn and shall make and attest a record of the proceedings. Five (5) of the incorporators shall be a quorum for the transaction of business.

Stock ownership and limitations.

Section 9. **Stock Ownership and Limitations.** Notwithstanding any rule at common law or any provision of any general or special law or any provision in their

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respective charters, agreements of association, articles of organization, or trust indentures:

(1) all domestic corporations organized for the purpose of carrying on business within this state including without implied limitation any public utility companies and insurance and casualty companies and foreign corporations licensed to do business in the state, and all trusts, are hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of said stock to exercise all the rights, powers, and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the state;

(2) all financial institutions are hereby authorized to become members of the corporation by making loans to the corporation as provided herein;

(3) a financial institution which does not become a member of the corporation shall not be permitted to acquire any share of the capital stock of the corporation;

(4) each financial institution which becomes a member of the corporation is hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of, any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of the corporation, and while owners of said stock to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the state; provided, that the amount of the capital stock of the corporation which may be acquired by any member pursuant to the authority granted herein shall not exceed ten percent (10%) of the loan limit of such member. The amount of capital stock of the corporation which any member is authorized to acquire pursuant to the authority granted herein is in addition to the amount of capital stock in corporations which such member may otherwise be authorized to acquire.

Members, and limitation and apportionment of loans by members.

Section 10. **Members, and Limitation and Apportionment of Loans By Members.** Any financial institution may request membership in the corporation by making

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application to the board of directors on such form and in such manner as said board of directors may require, and membership shall become effective upon acceptance of such application by the board. The application for membership will specify the loan limit which shall be subject to call of the corporation, but in no case shall the amount so specified exceed the limit provided for in this act. Each member of the corporation shall make loans to the corporation as and when called upon by it to do so on such terms and other conditions as shall be approved from time to time by the board of directors, subject to the following conditions:

(1) All loan limits shall be established at the thousand-dollar amount nearest the amount computed in accordance with the provisions of this section.

(2) No loan to the corporation shall be made if immediately thereafter the total amount of the obligations of the corporation to its members would exceed ten (10) times the amount then paid in on the outstanding capital stock of the corporation.

(3) The total amount outstanding on loans to the corporation made by any member at any one time, when added to the amount of the investment in the capital stock of the corporation then held by such member, shall not exceed:

(a) Twenty percent (20%) of the total amount then outstanding on loans to the corporation by all members, including in said total amount outstanding, amounts validly called for loan but not yet loaned.

(b) The following limit, to be determined as of the time such member becomes a member on the basis of the most recent year end balance sheet of such member at the close of its fiscal year immediately preceding its application for membership: Three percent (3%) of the capital and surplus of commercial banks and trust companies; one percent (1%) of the total outstanding loans made by a building and loan association; two percent (2%) of the capital and unassigned surplus of stock insurance companies; and such comparable limits as may be approved by the board of directors of the corporation for other financial institutions.

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(4) Subject to paragraph three (3) (a) of this section, each call made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding loans made by such member to the corporation and the investment in capital stock of the corporation held by such member at the time of such call.

(5) All loans to the corporation by member shall be evidenced by bonds, debentures, notes or other evidences of indebtedness of the corporation, which shall be freely transferable at all times, and which shall bear interest at a rate of not less than one-half of one percent (.50 of 1%) in excess of the rate of interest determined by the board of directors to be the prime rate prevailing at the date of issuance thereof on unsecured commercial loans.

Withdrawal of membership.

Section 11. **Withdrawal of Membership.** Membership in the corporation shall be for the duration of the corporation; provided that—

(a) Upon written notice given to the corporation two (2) years in advance, a member may withdraw from membership in the corporation at the expiration date of such notice.

A member shall not be obligated to make any loans to the corporation pursuant to calls made subsequent to the withdrawal of said member.

Surplus.

Section 12. **Surplus.** Each year the corporation shall set apart as earned surplus not less than ten percent (10%) of its net earnings for the preceding fiscal year until such surplus shall be equal in value to one hundred percent (100%) of the amount paid in on the capital stock then outstanding. Whenever the amount of surplus established herein shall become impaired, it shall be built up again to the required amount in the manner provided for its original accumulation. Net earnings and surplus shall be determined by the board of directors, after providing for such reserves as said directors deem desirable, and the directors' determination made in good faith shall be conclusive on all persons.

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Deposit of funds.

Section 13. **Deposit of Funds.** The corporation shall not deposit any of its funds in any banking institution unless such institution has been designated as a depository by a vote of a majority of the directors present at an authorized meeting of the board of directors, exclusive of any director who is an officer or director of the depository so designated.

The corporation shall not receive money on deposit.

Control, supervision and reports.

Section 14. **Control, Supervision, and Reports.** The corporation shall be subject to the examination of the state superintendent of banks, and shall make reports of its condition not less than annually to said superintendent, who in turn shall make copies of such reports available to the commissioner of insurance and to the governor. The corporation shall also file an annual statement required by Title 15, Revised Codes of Montana 1947.

Duration.

Section 15. **Duration.** The period of duration of the corporation shall be perpetual.

Termination.

Section 16. **Termination.** If a corporation organized pursuant to this act shall fail to begin business within five (5) years from the effective date of its articles of incorporation, then said articles shall become null and void.

Credit of state not pledged.

Section 17. **Credit of State Not Pledged.** Under no circumstances is the credit of the state pledged herein.

Application to sections of R.C.M. 1947.

Section 18. **Application to Sections of Revised Codes of Montana 1947.** The provisions of Title 15 of the Revised Codes of Montana 1947, shall apply to the corporation insofar as they may be applicable and not inconsistent with this act.

Savings clause.

Section 19. **Severability.** The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Approved: February 26, 1969.

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CHAPTER 129

An Act Providing for the Creation of Interlocal Cooperation Commissions to Consider and Propose Means of Improving Essential Local Governmental Services in Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of policy and purpose.

Section 1. **Declaration of policy and purpose.** (1) It is hereby declared to be the public policy of the state of Montana to provide for the residents of the state the means of improving their local governments so that essential services can be provided more effectively and economically. The growth of urban population, the necessity to maintain local governmental services in areas of increasing population on one hand, and in areas of decreasing population on the other, and the movement of people into suburban areas have created varied problems in the provision of public services and facilities which often cannot be met adequately by individual units of local government.

(2) It is the purpose of this act to provide a method whereby the residents of local areas in Montana may propose local solutions to these common problems in order that proper growth and development of the state may be assured and the health and welfare of the people therein secured.

Section 2. **Definitions.** As used in this act:

"Commission."

(1) "Commission" means an interlocal cooperation commission established pursuant to section 3 of this act.

"Principal city."

(2) "Principal city" means the city having the largest population in the county under consideration according to the latest federal decennial census.

"Unit of local government."

(3) "Unit of local government" means a county, city or town.

Establishment of an interlocal cooperation commission.

Section 3. **Establishment of an interlocal cooperation commission.** An interlocal cooperation commission may be established in either of two ways:

(1) A joint resoluiton providing for the establishment of an interlocal cooperation commission may be adopted by a separate vote of a majority of the governing bodies of the county, cities and towns having any jurisdiction in the

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county under consideration. A certified copy of such resolution or certified copies of such concurring resolutions shall be transmitted to the clerk and recorder of the county and an interlocal cooperation commission shall be deemed to be authorized.

(2) A petition requesting the establishment of an interlocal cooperation commission shall be signed by at least ten (10) per cent of the qualified voters within the county registered for the last preceding general election and shall be filed with the clerk and recorder of the county.

Upon receipt of such a petition, the clerk and recorder shall examine the source and certify to the sufficiency of the signatures thereon. Within thirty (30) days following receipt of such petition, the clerk and recorder shall transmit the same to the board of county commissioners and to the governing body of all cities and towns having any jurisdiction in the county together with his certificate as to the sufficiency thereof and an interlocal cooperation commission shall be deemed to be authorized.

Only one (1) commission may be established in a county at any one time.

Selection of an interlocal cooperation commission.

Section 4. **Selection of an interlocal cooperation commission.** (1) Any interlocal cooperation commission established pursuant to this act shall consist of members to be selected as follows:

(a) Four (4) members selected by the county commissioners.

(b) Four (4) members appointed by the mayor of the principal city and confirmed by the governing body of the city.

(c) One (1) member appointed by the mayor of each of the other cities and towns in the county and confirmed by the governing body of the city or town.

(d) One (1) member, who shall be chairman of the interlocal cooperation commission, selected by the other members of the commission at their initial meeting.

(2) Each member shall reside at the time of his appointment within the county if selected by the board of

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county commissioners or within the city or town by which appointed.

(3) No member shall be an official or employee of any unit of local government.

Time of appointment.

Section 5. **Time of appointment.** The members of the interlocal cooperation commission shall be appointed within (60) days after the commission is authorized.

Meetings of commission.

Section 6. **Meetings of commission.** (1) Not later than eighty (80) days after the commission is authorized, the members of the commission shall meet and organize at a time which shall be set by the board of county commissioners.

(2) At the first meeting of the commission, one (1) of the members appointed by the board of county commissioners shall be designated by that body to serve as temporary chairman. As its first official act, the commission shall select a chairman from outside its own membership.

(3) Further meetings of the commission shall be held upon call of the chairman, the vice chairman in the absence or inability of the chairman, or a majority of the members of the commission.

Vacancies, compensation, open meetings, quorum, rules.

Section 7. **Vacancies, compensation, open meetings, quorum rules.** (1) In case of a vacancy for any cause, a new member shall be appointed in the same manner as the member he replaces.

(2) Members of a commission shall receive no compensation but shall receive actual and necessary travel and other expenses incurred in the performance of official duties.

(3) All meetings of the commission shall be open to the public.

(4) A majority of the members of the commission shall constitute a quorum for the transaction of business.

(5) Each member shall have one (1) vote. A favorable vote by a majority of the entire commission shall be necessary for any action permitted by section 13 of this act, but other actions may be by a majority of those present and voting. Each commission may adopt such other rules for its proceedings as it deems desirable.

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Considerations in preparation of proposals.

Section 8. **Considerations in preparation of proposals.** A commission shall consider the various areas included within the county, including areas incorporated as municipalities, unincorporated areas essentially urban in nature, unincorporated areas with both urban and rural characteristics and predominantly rural areas. In the formation of its proposals which can include arrangements for countywide governmental services and urban area services in both incorporated and unincorporated areas, a commission shall study and take into consideration:

(1) The existing land use within the county, including the location of highways and natural geographic barriers to and routes for transportation, making use, wherever possible, of comprehensive land use plans prepared for the area by organized planning boards or other reliable surveys;

(2) The need for organized local governmental services, the present cost and adequacy of local governmental services and controls in the area, probable future needs for such services and controls, and the probable effect of alternative courses of action on the cost and adequacy of services and controls in the areas concerned and in adjacent areas;

(3) Population density, distribution and growth, per capita assessed valuation, the likelihood of significant growth in the areas concerned and in adjacent incorporated and unincorporated areas;

(4) The boundaries of existing units of local government;

(5) Maintenance of citizen access to, control of, and participation in local government;

(6) Such other matters as might affect provision of local governmental services on an equitable basis and provide more efficient and economical administration thereof.

Comprehensive program.

Section 9. **Comprehensive program.** The commission shall prepare a comprehensive program for the furnishing of local governmental services, on both countywide and urban areas bases, as it deems desirable.

Recommendations to implement program.

Section 10. **Recommendations to implement program.** In preparing its comprehensive program for furnishing

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local governmental services, a commission may recommend one or more of the following courses of action:

(1) Performance of one or more services by any existing unit of local government;

(2) Consolidation of specified services by transfer of functions between local units of government, by creation of joint administrative agencies or by contractual agreements;

(3) Consolidation of any existing special service district with one or more other special service districts to perform all of the services provided by any of them;

(4) Creation of a new special service district to perform one or more services, with provision for the dissolution of any existing special service districts performing like service or services within the proposed boundaries of such new district;

(5) Annexation of unincorporated territory to any existing city or town;

(6) Consolidation of any existing cities and towns with any other existing cities and towns;

(7) Consolidation of any cities and towns with the county in which they lie;

(8) Creation of a permanent council of governments, consisting of members of the governing bodies of the units of local government within and including the county concerned;

(9) Creation of a unified government for the entire county vested with (a) any and all powers which cities are, or may hereafter be, authorized or required to exercise under the constitution and general laws of the state of Montana, and (b) any and all powers which counties are, or may hereafter be, authorized or required to exercise under the constitution and general laws of the state of Montana.

(10) Any other change it considers desirable involving creation, dissolution, or consolidation of units of local government in the county under consideration, or involving alteration of their boundaries, powers, and responsibilities, consistent with provisions of the constitution of the state of Montana.

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Consideration of property and debts.

Section 11. **Consideration of property and debts.** (1) The commission shall determine the value and amount of all property used in performing any local governmental service and all bonded and other indebtedness of units of local government attributable to the acquisition of such property and affected by its comprehensive program for both urban area services and countywide services and shall determine and provide in its proposed program for assumption or equitable adjustment of such property and debts of each unit of local government affected.

Public hearings on proposed program.

Section 12. **Public hearings on proposed program.** Within two (2) years after the date of its organization, the commission shall complete the preparation of its proposals for the provision of both urban area services and countywide services and shall provide for adequate publication and explanation of its program. Notice of hearings shall be published once each week for at least two (2) weeks preceding a hearing, in at least one (1) newspaper of general circulation in the county. The notice shall state the time and place of the hearing.

Procedure for making recommendations.

Section 13. **Procedure for making recommendations.** After public hearing, the commission shall submit proposals contained in its comprehensive program for action as follows:

(1) If the comprehensive plan of the commission includes the creation of, or any change, alteration, consolidation, dissolution or annexation with respect to any unit of local government or special district, a procedure for which is provided by law upon petition by the people and an election, the commission shall make public its proposal or proposals to the people in the area or areas affected.

(2) If the comprehensive plan includes any change, alteration, interlocal agreement, consolidation, dissolution, or annexation with respect to any unit of local government or special district which can be carried into effect under existing law by action of the governing bodies of the units affected, the commission shall recommend the necessary action to the governing body or bodies of the units of government concerned.

(3) If the comprehensive plan includes the creation of, or any change, alteration, consolidation, dissolution or annexation with respect to any unit of local government or

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special district which necessitates enabling legislation or amendments to the general laws or constitution of the state of Montana, the commission shall make such recommendation or recommendations to the ensuing legislative assembly.

Additional powers and duties.

Section 14. **Additional powers and duties.** A commission shall have the following additional powers and duties:

(1) To contract and cooperate with other agencies, public or private as it considers necessary for the rendition and affording of such services, facilities, studies and reports to the commission as will best assist it to carry out the purposes for which the commission was established. Upon request of the chairman of the commission, all state agencies and all counties and other units of local government, and the officers and employees thereof, shall furnish the commission such information as may be necessary for carrying out its functions which may be available to or procurable by such agencies or units of government.

(2) To consult and retain such experts, and to employ such executive, clerical and other staff, as, in the commission's judgment, may be necessary.

(3) To accept and expend moneys from any public or private source, including the federal government. All moneys received by the commission shall be deposited with the county treasurer in the county. The county treasurer is authorized to disburse funds of the commission on its order.

(4) To do any and all other things as are consistent with and reasonably required to perform its functions under this act.

Appropriations.

Section 15. **Appropriations.** The units of local government within the county under consideration and the county may appropriate funds for the necessary expenses of the commission.

Term of commission.

Section 16. **Term of commission.** All commissions shall terminate four (4) years from the date of their establishment. However, a commission, upon completion of its duties, may terminate earlier by a vote of three-fourths

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(¾) of the members favorable to such earlier termination.

Section 17. **Severability.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. Severability.

Section 18. **Effective date.** This act is effective on its passage and approval. Effective date.

Approved: February 26, 1969.

CHAPTER 130

An Act to Require the Fish and Game Commission to Control and Regulate Roadside Menageries or Zoos.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act, unless the context clearly indicates otherwise:

(1) "commission" means the Montana fish and game commission; "Commission."

(2) "roadside menagerie or zoo" means any place where one (1) or more wild animals, including birds, reptiles, and the like are kept in captivity, for the evident purpose of exhibition or attracting trade, but does not include the exhibition of any animal by any educational institution or in any zoological garden chartered as a nonprofit corporation by the state nor animals exhibited by any traveling theatrical exhibition or circus; "Roadside menagerie or zoo."

(3) "wild animal" means any animal wild by nature as distinguished from the common domestic animals, whether or not such animal was bred or reared in captivity, and includes birds and reptiles; "Wild animal."

(4) "director" means the director of the state fish and game commission. "Director."

Section 2. (1) The commission shall grant permits for roadside menageries or zoos. Permits—rules and regulations.

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(2) The commission shall adopt and enforce reasonable regulations for the housing, care, treatment, feeding and sanitation of animals kept in roadside menageries, and for the protection of the public from injury by such animals.

Permit application —fees— transferability.

Section 3. (1) It is unlawful for any person to operate a roadside menagerie without a permit. Application for a permit shall be made to the director on a form prescribed by him. The annual permit fee for five (5) or less animals shall be ten dollars ($10.00). The annual permit fee for more than five (5) animals shall be twenty-five dollars ($25.00). Permits shall expire on December 31, but may be renewed upon payment of the annual fee. This section shall not apply to the United States, the state of Montana, or any county or city. Any person who shall subscribe to any false statement in application for a permit shall be guilty of a misdemeanor.

(2) No permit shall be granted by the commission until it has satisfactorily verified that the provisions for housing and caring for such animals and for protecting the public are proper and adequate and in accordance with the standards established by the commission.

(3) A permit is not transferable to another person unless the roadside menagerie or zoo to which it pertains is also transferred to the same person. The director's approval must be obtained prior to such permit transfer and prior to a transfer of any wild animals held under the permit.

Obtaining wild animals for zoo.

Section 4. It is unlawful to obtain wild animals for a menagerie or zoo by capture from the wild or by purchase except in accordance with the terms of a permit. Applicatoin for such permit shall be made to the director on a form prescribed by him. After investigation by the department, the director may issue such permit without charge if he finds (a) that all provisions of this act and of the commission regulations are complied with by the applicant; and (b) that the number and species of wildlife desired is not excessive under the circumstances. If wild animals are to be obtained by capture, the permit shall designate the number and the means of capture, but ownership of the wild animals captured shall remain in the state of Montana. Non game animals may be bought, sold or transferred under such regulations as the fish and game commission may prescribe.

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Menagerie permit exclusions.

Section 5. A menagerie permit cannot be construed as a commercial game propagating permit and the holder of such permit must not, under any circumstances, sell or attempt to sell any of the original game birds or game animals or the progeny thereof. A game propagating permit is required to propagate and sell game birds and game animals for commercial purposes. A fur farming permit is required to propagate and sell fur-bearing animals. All offspring of game animals, game birds or fur-bearing animals are the property of the state wherein the menagerie is located, and must be disposed of by the state.

Inspection of facilities.

Section 6. All roadside menageries or zoos and all equipment used in connection therewith shall be open to inspection at all reasonable hours. If upon inspection it is found that the menagerie or zoo is not being operated in accordance with this act or with the commission regulations, the director shall revoke the permit without right of renewal and shall redeem possession of all wildlife obtained by capture or unlawful propagation.

Enforcement—violation—penalty.

Section 7. The provisions of this act shall be enforced by any state fish and game warden or any other legally authorized officer. Any person violating the provisions of this act shall, upon conviction, be punished by a fine of not more than two hundred fifty dollars ($250.00), imprisonment for a period of not more than ten (10) days, or both, and at the discretion of the court the permit and all rights and privileges inherent therein may be forfeited. Any animals being kept in violation of any section of this act may be confiscated or ordered disposed of at the discretion of the state fish and game director. The permitee may appeal to the commission within twenty (20) days of the date of the order to confiscate and the commission shall hold a hearing on such an appeal and the decision of the commission shall be final.

Disposition of fees and fines.

Section 8. Fines, bonds or penalties shall be administered and disposed of in accordance with the provisions of section 26-1001. Fees obtained under this act shall be deposited with the state treasurer and credited to the earmarked revenue fund, fish and game account.

Approved: February 27, 1969.

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CHAPTER 131

An Act Relating to the Description and Plan of New, Reconstructed or Controlled Access Highway—Recording; Amending Section 32-2413, R.C.M. 1947, Enacted Section 4-113, Chapter 197, Laws 1965, Requiring the State Highway Commission Make a Description and Plan of the Established Width, Location and Lines of Any New, Proposed, Reconstructed or Controlled Access Highway; Requiring Such Description and Plan Shall be Filed With the County Clerk and Recorder in the County Where Appropriate; Requiring That Such Description and Plan Shall Contain Line, Location Width of the Proposed, New or Reconstructed Highway or Control of Access, the Immediate Boundaries of All Ownerships Over, Across and Through Which Said Highway Shall Pass, the Name of the Owner Thereof, and the Number of the Parcel Within the Right of Way of said Proposed, New, Controlled Access or Reconstructed Highway; that Reference to Said Description and Plan Shall Constitute the Project Number, Parcel Number, the Section, Half or Quarter Section, Block or Lot or Tract Number From Which Said Parcel is Subdivided Shall Constitute Legal Description of Said Parcel Within Such Right of Way in Any Conveyance to or From the State of Montana of Such Parcel; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-2413, R.C.M. 1947, as enacted Section 4-113, Chapter 197, Laws 1965, is amended to read as follows:

Description and plan of new highway or reconstructed or controlled access facility—recording.

"32-2413. **Description and plan of new highway** *or reconstructed* **or controlled access facility—recording.** (1) Whenever the commission shall establish the location width, and lines of any new, *reconstructed,* or proposed highway, or declare any road, street or highway as a controlled access facility, it shall make a description and plan showing the center line and the established width, *the immediate boundary lines of all private property over, across or through which said highway shall pass, the name or names of the owner thereof, the boundaries of that part of such private ownership as shall be included within the right of way of said highway and the parcel number assigned to that part of each ownership included within said highway right*

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of way, together with the project number under which said highway shall be or is proposed to be constructed or reconstructed.

(2) *That reference to the project number, parcel number, and section, or quarter section, tract, block or lot from which the same has been subdivided shall constitute good and valid description of said parcel in all deeds given to or received from the state of Montana wherein any parcel shall be transferred."*

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved: February 27, 1969.

CHAPTER 132

An Act to Amend Section 87-117, R.C.M. 1947, and Section 87-118, R.C.M. 1947, of the Unemployment Compensation Law by Providing for a Change of Name of the Unemployment Compensation Commission of Montana, and by Providing for the Establishment of Two (2) Coordinate Divisions of Said Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-117, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-117. *Employment security* **commission—organization.** There is hereby created a commission to be known as the *employment security* commission of Montana. The commission shall consist of three (3) members who shall be appointed by the governor by and with the advice and consent of the senate. Two (2) of the members of the commission shall be from different political parties and shall serve for terms of four (4) years, provided, however, that one (1) of those first appointed after this act takes effect shall serve for a term of two (2) years. They shall serve on a per diem basis and shall be paid at the rate of ten dollars ($10) per day of service plus actual and necessary expenses, provided, however, that the total per diem compensation in any one (1) year for each of said two (2) members shall not exceed the sum of five hundred dollars ($500). The third member of the commission, who shall be designated as chair- Employment security commission—organization.

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man at the time of his appointment, shall be paid a full-time salary in an amount to be fixed by the governor and shall be the executive director. During his term of membership on the commission, no member shall serve as an officer or committee member of any political party organization. The governor may, at any time, after notice and hearing, remove any commissioner for neglect of duty, malfeasance, misfeasance, or nonfeasance in office."

Amending clause.

Section 2. Section 87-118, R.C.M. 1947, is amended to read as follows:

Divisions.

"87-118. **Divisions.** The commission shall establish two co-ordinate divisions: The Montana state employment service division created pursuant to section 87-132, and the unemployment *insurance* division. Each division shall be responsible to the executive director for the discharge of its distinctive function. Each division shall be a separate administrative unit with respect to personnel, budget, and duties except in so far as the commission may find that such separation is impracticable."

Approved: February 27, 1969.

CHAPTER 133

An Act to Amend Section 31-126, R.C.M. 1947, Deleting the Requirement that an Out of State Resident Possess a Montana Chauffeur's License in Order to Accept Employment from a Montana Resident.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-126, R.C.M. 1947, is amended to read as follows:

What persons are exempt from license.

"31-126. **What persons are exempt from license.** The following persons are exempt from license hereunder:

1. Any person who is a member of the armed forces of the United States while operating a motor vehicle owned by or leased to the United States government and being operated on official business;

2. Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway;

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3. A nonresident who is at least fifteen (15) years of age and who has in his immediate possession a valid operator's license issued to him in his home state or country may operate a motor vehicle in this state only as an operator;

4. A nonresident who is at least eighteen (18) years of age and who has in his immediate possession a valid chauffeur's license issued to him in his home state or country may operate a motor vehicle in this state either as operator or chauffeur subject to the age limits applicable to chauffeurs in this state;

5. Any nonresident who is at least eighteen (18) years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle so operated is duly registered in the home state of country of such nonresident.

6. A driver's license issued hereunder to any person who enters the united States armed forces, if valid and in force and effect at the time such person enters the service, shall continue in full force and effect so long as such service shall continue unless such license is sooner suspended, revoked or cancelled for a cause as provided by law, and for not to exceed thirty (30) days following the date on which holder of such driver's license is honorably separated from such service. During said thirty (30) day period such license shall be valid only when in the immediate possession of the licensee while driving and the licensee has his discharge, separation, leave or furlough papers in his immediate possession."

Approved: February 27, 1969.

CHAPTER 134

An Act to Protect, Conserve and Manage Grizzly Bear as a Rare Species of Montana Wildlife, to Provide the State Fish and Game Commission with Authority to Promulgate Such Regulations as may be Necessary for the Protection, Conservation and Management of Grizzly Bear, and to Amend Section 26-307, R.C.M. 1947, by

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Providing that Such Parts of Grizzly Bear as the Commission Shall Demand Must Be Removed and Delivered to an Officer or Employee of the Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy.

Section 1. It is hereby declared the policy of the state of Montana to protect, conserve and manage grizzly bear as a rare species of Montana wildlife.

Authority to provide open and closed sessions.

Section 2. The state fish and game commission shall have authority to provide open and closed seasons; means of taking; shooting hours; tagging requirements for carcasses, skulls and hides; possession limits; and requirements for transportation, exportation and importation of grizzly bear.

Amending clause.

Section 3. Section 26-307, R.C.M. 1947, is amended to read as follows:

Waste of fish or game—hunting or fishing during closed season—killing more than one game animal—exceptions for bear.

"Section 26-307. **Waste of fish or game—hunting or fishing during closed season—killing more than one game animal—exceptions for bear.**

(1) It shall be unlawful and a misdemeanor for any person responsible for the death of any game animal of this state, excepting grizzly, black and brown bear, to detach or remove from the carcass only the head, hide, antlers, tusks or teeth, or any or all of aforesaid parts, or to waste any part of any game animal, game bird, or game fish suitable for food or to abandon the carcass of any game animal in the field, except black and brown bear, which need have removed and taken from the carcass only the head or the hide of such bear, *and except grizzly bear, which need have removed and taken from the carcass only the head and hide and such other parts as the state fish and game commission may demand for scientific purposes. All parts of grizzly bear demanded by the commission for scientific purposes must be delivered to an officer or employee of the commission for inspection as soon as possible after removal and the commission shall return to the licensee any bone structure and skull within one year upon written request. The hide shall be returned immediately.*

(2) It shall be unlawful and a misdemeanor for any person to kill more than one game animal of any one

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species, in any one license year, unless the killing of more than one game animal of such species has been authorized by regulations of the fish and game commission.

(3) It shall be unlawful and a misdemeanor for any person during the closed season on any species of game animal, game bird or fish to take, hunt, shoot, kill or capture any such game animal or such game bird or to fish for or catch any such fish."

Section 4. This act is effective upon its passage and approval. Effective immediately.

Approved: February 27, 1969.

CHAPTER 135

An Act to Amend Section 62-304, R.C.M. 1947, Authorizing the State Fish and Game Commission to Designate Certain Areas as State Parks, Historical Sites, Monuments, or by Such Other Designation as it Deems Appropriate, or to De-Designate Any Area as Designated, and to Name or to Change the Name of Areas as Designated, and Authorizing the Commission to Lease Such Areas as the Commission Deems to be in the Best Interests of the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 62-304, R.C.M. 1947, is amended to read as follows: Amending clause.

"62-304. **Powers and duties.** The commission is hereby authorized and directed to make a study to determine the scenic, historic, archaeologic, scientific and recreational resources of the state, and shall have power by purchase, lease, agreement, or by acceptance of donations, or condemnation, to acquire for and in the name of the state, any such areas, sites, or objects which in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historical sites. The commission shall also have power in its discretion to receive and accept in the name of the state, in fee or otherwise, any such areas, sites, or objects conveyed, entrusted, donated, or devised to the state, and with Powers and duties.

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like discretion to accept gifts, *grants,* bequests, or contributions of money or other property to be expended or used for any of the purposes of this act; provided, that no contract shall be entered into or other obligation incurred under the provisions of this act until moneys have been appropriated therefor by the legislature or are otherwise made available as herein provided. The commission shall also have jurisdiction, custody and control of all state parks, recreational areas, public camping grounds, historical sites, and monuments which are now under the control and management of the state, except wayside camps and other public conveniences acquired, improved and maintained by the state highway commission and contiguous to the state highway system. *The commission shall have the authority to designate lands under its control as state parks, state historical sites, state monuments, or by such other designation as it deems appropriate, or to de-designate any area or portion thereof as designated, and to name or change the name of any area as designated, and to lease such portions of designated lands as may be necessary for the proper administration of these lands in keeping with the basic purpose of this act.''*

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved: February 27, 1969.

CHAPTER 136

An Act to Amend Section 11-3830, R.C.M. 1947, to Provide that Boundaries of a Jurisdictional Area, Outside the Cities can be Established Only Upon Petition of 5% of the Freeholders Within the Area, and After Good Cause is Shown Therefor at a Hearing, After Notice, on the Intent of the County Commissioners to Create Such an Area; and to Increase the Jurisdictional Area of the City-County Planning Board from Four and one-half (4½) Miles to Twelve (12) Miles Beyond the Limits of Any City Within the Jurisdictional Area; to Provide for Petition and Hearing for Extension of Limits Beyond Four and One-Half (4½) Miles.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-3830, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3830. **Jurisdictional area.** 1. The governing bodies represented on a city-county planning board shall by separate resolution establish the jurisdictional area of the planning board. The jurisdictional area shall include the area within the incorporated limits of the city and such contiguous unincorporated area outside the city as, in the judgment of the respective governing bodies, bears reasonable relation to the development of the *area involved.* Jurisdictional area.

The boundaries of the jurisdictional area can be extended further than four and one-half miles from the limits of the cities only upon petition signed by five percent (5%) or more of the resident freeholders living in excess of four and one-half miles and not more than twelve miles from the limits of the cities and within the area desiring to be included within said jurisdictional limits, and upon presentation of said petition to the board of county commissioners. Thereafter, the board of county commissioners must, by resolution, set the proposed boundaries of said area and give notice of their intent to add said area to the jurisdictional limits theretofore created and of receipt of said petition, by publication of notice of time and place of hearing on said petition and resolution, said notice to be published in a newspaper published in the county not less than ten (10) nor more than twenty (20) days prior to the date of said hearing. Thereafter, the said boundaries of said area can only be set upon good cause being shown for the establishment of said extended jurisdictional area and the boundaries thereof, provided that such resolution shall not be adopted by the board of county commissioners, if disapproved in writing, by a majority of the freeholders of the territory proposed to be embraced. The jurisdictional area shall not extend more than *twelve (12)* miles beyond the limits of any city within the jurisdictional area.

2. The planning board, after approval of the jurisdictional area by the governing bodies, shall file in the office of the clerk and recorder a map showing the boundaries of the jurisdictional area. The boundaries may be revised from time to time by resolutions of the governing bodies. Such revised boundaries shall be shown upon a map which

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shall be filed as provided in this section. The area included in such map shall constitute the area over which the planning board shall have advisory jurisdiction.

3. In case an unincorporated area is within the potential jurisdiction of more than one planning board, then the boundary between the conflicting areas shall be determined by agreement between the planning boards involved, with the approval of their respective governing bodies, and a map showing the boundary lines so agreed upon and approved shall be filed as provided in this section, and thereafter shall fix the limit of territorial jurisdiction of the respective planning boards."

Approved: February 27, 1969.

CHAPTER 137

An Act to Amend Section 31-147, R.C.M. 1947, to Delete a Discretionary Suspension Authorized for Offenses for Which Mandatory Revocation of Driver's License is Required Upon Conviction; Clarifying Meaning of Unlawful or Fraudulent Use of Driver's License; Changing "Supervisor" to "Chief".

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-147, R.C.M. 1947, is amended to read as follows:

Authority of board to suspend license or driving privilege or issue probationary license.

"31-147. **Authority of board to suspend license or driving privilege or issue probationary license.** (a) The board is hereby authorized to suspend the license or driving privilege of an operator or chauffeur without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

1. Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;

2. Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

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3. Is an habitually reckless or negligent driver of a motor vehicle;

4. Is incompetent to drive a motor vehicle;

5. Has permitted an unlawful or fraudulent use of such license *as specified in section 31-153;*

6. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; or

7. Has falsified his date of birth on his application for a driver's license.

(b) Provided, however, the board may, in its discretion, and in lieu of such suspension of license or driving privilege, issue a probationary license to an operator or chauffeur, without preliminary hearing, upon a showing by its records or other sufficient evidence that the licensee's driving record is such as would authorize suspension as provided in subsection (a) hereof. Upon issuance of a probationary license the licensee shall be subject to the restrictions set forth thereon. The licensee's driving privilege may be suspended upon conviction, or forfeiture of bail, not vacated, of any traffic violation during the period of such probation. The licensee shall surrender to the board all driver licenses theretofore issued to him before such probationary license shall be issued. His refusal or neglect to surrender such licenses, upon demand, shall be ground for suspending all such licenses. Probationary licenses may be issued for a period not to exceed twelve (12) months.

(c) Upon suspending the license of any person or upon placing such person on probation, as hereinbefore in this section authorized, the board shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed twenty (20) days after receipt of such request in the county wherein the licensee resides unless the board and the licensee agree that such hearing may be held in some other county. Upon such hearing the *chief* or his duly authorized agent may administer oaths and may issue subpoenas for attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the board shall either rescind its order of suspension or probation, or, good

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cause appearing therefor, may affirm, reduce or extend the period of probation or suspension of such license."

Approved: February 27, 1969.

CHAPTER 138

An Act to Provide a Penalty for Untimely Filing of the Mine or Mining Claim Net Proceeds Tax Statement of Yield, and the Collection Thereof, and to Provide for an Extension of Time for Such Filing; Amending Sections 84-5402 and 84-5405, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-5402, R.C.M. 1947, is amended to read as follows:

Net proceeds tax—statement of yield, penalty, extension of time.

"84-5402. **Net proceeds tax—statement of yield,** *penalty, extension of time.* Every person, partnership, corporation, or association, engaged in mining, extracting or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or sources whatever, precious stones or gems, gold, silver, copper, coal, lead, petroleum, natural gas, or other valuable mineral, must on or before the thirty-first day of March of each year make out a statement of the gross yield of the above-named metals or minerals from each mine owned or worked by such person, corporation or association during the year preceding the first day of January of the year in which such statement is made, and the value thereof. Such statement shall be in the form prescribed by the state board of equalization, and must be verified by the oath of such person or the manager, superintendent, agent, president or vice-president of such corporation, association or partnership, and must be delivered to the state board of equalization on or before the thirty-first day of March. Such statement shall show the following:

1. The name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to

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each of such persons, corporations or associations during the period covered by the statement.

2. The description and location of the mine.

3. The number of tons of ore, barrels of petroleum, cubic feet of natural gas or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement.

4. The amount and character of such ores, mineral products or deposits, and the yield of such ores, mineral products or deposits from such mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, tons of coal, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas or other commercially valuable constituents of said ores or mineral products or deposits measured by standard units of measurement, yielded to such person, corporation or association so engaged in mining, and to said royalty holders and each of them, if any, during the period covered by the statement.

5. The gross yield or value in dollars and cents.

6. Actual cost of extracting same from mine.

7. Actual cost of transporting to place of reduction or sale.

8. Actual cost of reduction or sale.

9. Actual cost of marketing the product and conversion of same into money.

10. Cost of construction, repairs and betterments of mines, and cost of repairs and replacements of reduction works.

11. The assessed valuation of reduction works for the calendar year for which such return is made.

12. Actual cost of fire insurance and workmen's compensation insurance.

If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state board of equalization when transmitting the net proceeds valuations to the counties shall inform the county assessor

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of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state board of equalization required by this section. The state board of equalization shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state board of equalization and deposited to the credit of the general fund of the state of Montana.

The state board of equalization shall, upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section. This penalty shall be in addition to penalties provided in section 84-5410.''

Amending clause.

Section 2. Section 84-5405, R.C.M. 1947, is amended to read as follows:

Lien of tax and penalty.

"84-5405. **Lien of tax** *and penalty.* The tax *and/or penalty* so assessed on net proceeds shall be and shall constitute a lien upon all of the right, title and interest of such operator in or to such mine or mining claim and upon all of the right, title and interest in or to the machinery, buildings, tools and equipment used in operating said mine or mining claim, *and the tax and/or penalty on such net proceeds may be collected, and the payment thereof enforced, by the seizure and sale of the personal property upon which the said tax and/or penalty is a lien, in the same manner as other personal property is seized and sold for delinquent taxes, or by the sale of the mine and improvements, as provided for the sale of real property for delinquent taxes, or by the institution of a civil action for its collection in any court of competent jurisdiction; provided, however, that a resort to any one of the methods of enforcing collection, as herein provided for, shall not bar the right to resort to either or both of the other methods, but that any two or all of the methods herein provided for may be used until the full amount of such tax and/or penalty is collected.''*

Approved: February 27, 1969.

CHAPTER 139

An Act Relating to the Determination of Residency Status for Students in the Montana University System;

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Amending Section 75-506.3, 75-506.4 and 75-506.7, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-506.3, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-506.3. **Definition of terms.** Wherever used in this act:

'Unit' shall mean a unit of the Montana university system. "Unit."

'Resident student' shall mean a student who has been domiciled in Montana for one (1) year or more immediately preceding registration at any unit of the Montana university system for any term or session for which resident classification is claimed, provided, that attendance in Montana as a full or part-time student at any college, university of other institution of higher education shall not alone be sufficient to qualify for residence in Montana. Any graduate of a Montana high school whose parents, parent or guardian have resided in the state of Montana at least one (1) *full year* of the two (2) years immediately preceding his graduation from high school shall also be entitled to classification as a resident student for tuition and fee purposes, *for a period not to exceed four (4) academic years provided the student remains in continuous attendance at a unit of the Montana university system for such period of time.* "Resident student."

'Domicile' shall mean a person's true, fixed, and permanent home and place of habitation. "Domicile."

'Minor' shall mean a male or female person who has not obtained the age of twenty-one (21) years. "Minor."

'Qualified person' shall mean a person legally qualified to determine his own domicile. "Qualified person."

'Emancipated minor' shall mean a person under the age of twenty-one (21) years who supports himself from his own earnings or is married. Any person who receives more and twenty-five percent (25%) of the cost of supporting himself from any person other than an agency of the government shall not be considered an 'emancipated minor' under this act." "Emancipated minor."

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Amending clause.

Section 2. Section 75-506.7, R.C.M. 1947, is amended to read as follows:

Appeal.

"75-506.7. **Appeal.** Any student whose request for classification as a resident student is denied by the registering authority of a unit of the Montana university system shall have the right of appeal from such denial to the executive secretary of the regents of the Montana university system. Immediately upon rejection *and at the* request, *of the student,* the registering authority shall forward a copy of his decision together with his complete file on the student requesting resident status to the executive secretary. The executive secretary may accept other evidence of residence from either the student, the registering authority or other interested persons. Within thirty (30) days of the receipt of the decision of the registering authority, the executive secretary shall determine the resident status of the student and shall notify the student and the registering authority of his decision, which may be appealed to the full board of regents if said board in its discretion, agrees to entertain such an appeal."

Amending clause.

Section 3. Section 75-506.4, R.C.M. 1947, is amended to read as follows:

Presumptions as to domicile.

"75-506.4 **Presumptions as to domicile.** Unless the contrary appears to the satisfaction of the registering authority of the unit at which a student is registering, it shall be presumed that:

(1) The domicile of a minor is that of his father, or if no father that of his mother, or if there is a guardian of his person that of such guardian; provided that the court appointing such guardian shall certify that the primary purpose of such appointment is not to qualify such minor as a resident of this state; or if one parent has custody of the minor that of such parent.

(2) The domicile of a married woman is normally that of her husband; provided, however, that a resident woman student who marries a nonresident does not by that fact alone lose her resident status for tuition and fee purposes for a period of four (4) years after said marriage.

(3) A person does not gain or lose resident status by reason of his presence in any state or country while a member of the armed forces of the United States; provided,

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that a member of the armed forces may obtain resident status for himself, his spouse, or his children, after living in Montana for one (1) year, and complying with the provisions of this act.

(4) The establishment of a new domicile in Montana by a qualified person formerly domiciled in another state has occurred if he is physically present in Montana without a present intention to return to such other state or to acquire a domicile at some other place outside of Montana.

(5) Once established a domicile has not been lost by mere absence unaccompanied by intention to establish a new domicile.

(6) Any graduate of a Montana high school who shall apply for admittance to a unit of the Montana university system within one (1) year after his or her graduation and whose parent or parents, having custody of such graduate, has or have resided in the state of Montana in at least one (1) *full year* of the two (2) years immediately preceding such graduate's graduation from a Montana high school, shall be presumed to be a resident student for such time as he or she attends any unit of the university system during the regular school year for the next four (4) consecutive years."

Approved: February 27, 1969.

CHAPTER 140

An Act Repealing Sections 84-5601, 84-5602, 84-5603, 84-5604, 84-5605, 84-5607, 84-5608, 84-5609, 84-5610, 84-5611, 84-5612, 84-5613, 84-5614, 84-5615, 84-5616, 84-5617, 84-5618, 84-5619, 84-5620, 84-5621, 84-5622, and 84-5623, R.C.M. 1947, and Providing for Annual License Fees and for Annual Licensing of Wholesalers and Retailers of Cigarettes, and for the Payment of the Cost of Enforcement of State Cigarette Laws; and Providing Procedures for the Collection of the Tax Imposed by Section 84-5606, R.C.M. 1947; and Providing for Penalties for Violations of this Act, and Providing for the Administration of this Act; and Providing Revenue for the General Fund of the State of Montana.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act the following definitions shall apply unless the context otherwise requires:

"Board." (a) The word "board" shall mean the state board of equalization of the state of Montana.

"Person." (b) The word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, organization or association however formed.

"Cigarettes." (c) "Cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of non-tobacco paper, or any other substance or material except tobacco.

"Insignia or "indicia." (d) The words "insignia" or "indicia" shall mean the impression or mark approved by the state board of equalization, under the provisions of this act.

"Full face value of insignia." (e) The words "full face value of insignia" shall mean the total amount of the tax levied under this act.

"Public warehouse." (f) The words "public warehouses" shall mean agents or representatives of manufacturers who receive cigarettes in carload lots for distribution to wholesaler and retailers in original cases.

"Wholesaler." (g) The word "wholesaler" shall mean and include any person resident in this state who brings or causes to be brought into this state unstamped cigarettes purchased directly from the manufacturers thereof and stores, sells, or otherwise disposes of the same after they shall reach this state; and also any person who, within this state, manufactures or produces, directly or indirectly, cigarettes and sells or distributes the same within this state.

'Licensed wholesaler." (h) The words "licensed wholesaler" shall mean a wholesaler duly licensed under the provisions of this act.

"Cigarette vendor." (i) The words "cigarette vendor" shall mean and include any person, company or corporation, doing business in the state, who purchases cigarettes through a wholesaler for ten (10) or more cigarette vending machines, which he operates for a profit in premises or locations other than his own. Such person, company or corporation shall be

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treated as a wholesaler. Any person, company, corporation or fraternal organization who operates less than ten (10) cigarette vending machines shall be treated as a retailer.

"Retailer." (j) The word "retailer" shall mean any person other than a wholesaler, who is engaged in the business of selling cigarettes at retail.

"Licensed retailer." (k) The words "licensed retailer" shall mean any person other than a wholesaler, who is duly licensed under the provisions of this act.

"Sale" and "sell." (l) The words "sale" and "sell" shall mean and include any transfer of cigarettes by sale, as defined by section 87-A-2-106, R.C.M. 1947, or by gift, barter or exchange.

Licensing. Section 2. Every wholesaler or retailer shall obtain a license from the board before engaging in the business of wholesaler or retailer. A separate application and a separate license shall be required for each place of business owned, controlled or operated by such wholesaler or retailer within the state of Montana. Application forms shall require the type and general description of applicant organizations, names and home addresses of all known owners, state whether or not principals of such organization have been convicted of a felony and identify each such individual, and such other pertinent information as the board may require in regularly promulgated regulations.

Cigarette vending machines. Section 3. Cigarette vending machines shall not be considered as places of business per se but a report of each and all machines shall be made on forms prescribed by the board, which shall state the name and address of the cigarette vendor, the assigned location of each machine with best machine identification available, type of business, and such other information as the board may require for proper administration of this act.

License fees. Section 4. Each application for a wholesaler's license shall be accompanied by a fee of fifty dollars ($50) effective July 1, 1969. Each application for a retailer's license shall be accompanied by a fee of five dollars ($5) effective July 1, 1969. These licenses shall be renewed annually upon payment of the annual fee in the amount set forth above, and shall be effective for one year, without prora-

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tion. Each license shall be prominently displayed on the licensed premises, and a separate license shall be displayed at each place of business owned, controlled or operated by such wholesaler or retailer.

Disposition of license fees.

Section 5. All license fees collected under the provisions of this act shall be deposited monthly with the state treasurer in the board's cigarette enforcement account in the earmarked revenue fund. There shall be appropriated to the board, from said cigarette enforcement account, such sum as may be necessary to comply with the provisions of this act for the fiscal biennium ending June 30, 1971. On or before June 30, 1971, the board shall pay to the state treasurer to the credit of the state general fund, all funds in excess of seven thousand five hundred dollars ($7,500) in said cigarette enforcement account, not needed for the administration of this act.

For the biennium beginning July 1, 1971, and each biennium thereafter, there shall be appropriated to the board a sum deemed justified and reasonable to operate the board's cigarette enforcement division, providing that after payment of all pending and known expenses, all sums so appropriated in excess of seven thousand five hundred dollars ($7,500) not needed for the administration of this act, shall be transferred to the state general fund to be available for general fund purposes. Such transfer shall be made within fifteen (15) days of the last day of the biennium.

All expenses charged against said cigarette enforcement account shall be justified by itemized claims coupled with standard accounting reports.

Insignia.

Section 6. Wholesalers and retailers licensed under this act may buy, sell or have in their possession only cigarettes which have the insignia provided for in this act on each package. The insignia provided for in this act shall be sold to, and affixed by, licensed wholesalers and licensed retailers only.

Revocation or suspension of licenses.

Section 7. The board may revoke or suspend the license of any wholesaler or retailer for failure to comply with any provision of this act or of the Unfair Cigarette Sales Act (section 51-301 through 51-314, R.C.M. 1947), and with any lawful rule or regulation of the board made pursuant to said laws. Any person aggrieved by such revocation or

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suspension may apply to the board for a hearing which shall be open to the public, and may further appeal to the court, as hereinafter provided. When a license has been duly revoked, no license shall again issue to such licensee for a period of one (1) year thereafter. When a license has been duly suspended, the suspension may be for any period not to exceed one (1) year. Any person who shall sell cigarettes after his license has been revoked or suspended is guilty of a misdemeanor, and shall be punished as hereinafter provided, and all cigarettes in his possession shall be seized and forfeited to the state.

Violation and penalty.

Section 8. No person shall sell, offer to sell, or possess with intent to sell, any cigarettes, at wholesale or retail unless his license is current and valid, under the provisions of this act. Any person violating the provisions of this section is guilty of a misdemeanor, and shall be punished as hereinafter provided, and all cigarettes in his possession shall be seized and forfeited to the state.

Tax.

Section 9. The tax referred to in this act shall mean the tax imposed by section 84-5606, R.C.M. 1947. The full face value of the insignia or tax shall be added to the cost of the cigarettes and recovered from the ultimate consumer or user.

Use of insignia.

Section 10. Insignia shall be affixed to packages of cigarettes only by licensed wholesalers and licensed retailers.

Cost of insignia.

Section 11. Every licensed wholesaler and licensed retailer shall be entitled to purchase said insignia at full face value less eight per cent (8%) of the face value, upon payment therefore, as defrayment of the costs of affixing insignia and precollecting such tax on behalf of the state of Montana. This defrayment is not applicable to that portion of the tax collected for any veterans' honorarium or long range building program.

Use of tax meter machine.

Section 12. The board may authorize any wholesaler or retailer of cigarettes licensed under this act to use a tax meter machine with which to imprint an insignia upon each package of cigarettes imported, sold or delivered in this state. The insignia shall be one approved by the board. Each package of cigarettes imported into this state, delivered or sold therein shall be marked with the proper insignia of such tax stamping meter and thereafter any

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original package of cigarettes so marked may be lawfully possessed and sold within the state by any wholesaler or retailer licensed under this act. The board shall supervise and check the operation of such tax meter machines. The operator of such machine before using the same, shall take the meter thereof to the county treasurer, of the county in which the machine is operated, who is authorized to, and shall set said meter for the number of packages specified and required by the operator. Prior to setting said meter the county treasurer shall charge said operator the amount of money proper for said setting, less the expense defrayment of eight per cent (8%) provided for in section 11. The county treasurer shall collect this amount in advance unless the board has allowed the purchaser credit as provided in section 14. The county treasurer shall report to the board on forms prescribed by it, the name of the licensed wholesaler or licensed retailer and the number of packages for which said meter was set and shall forward to the board any amounts collected from said licensee.

Resale of insignia prohibited.

Section 13. No wholesaler or retailer shall resell to any other wholesaler or retailer any insignia purchased by him from the board. Any wholesaler or retailer who has on hand any meter settings at the time of discontinuing his business of selling cigarettes, may apply to the board and be paid the face value of said meter settings less the amount of the expense defrayment allowed by section 11.

Payment for insignia.

Section 14. The board shall permit a licensed wholesaler or licensed retailer to pay for the insignia purchased, or affixation of insignia, within thirty (30) days after the date of purchase and shall require such licensee to file with the board a bond issued by a surety company approved by the state department of insurance as to solvency and responsibility and authority to transact business in the state, for such amount as the board may fix, but not in excess of an amount equal to the maximum insignia purchased incurred for any thirty (30) day period in the previous calendar year; provided, however, that any newly licensed wholesaler or licensed retailer shall pay on a cash basis for one (1) complete calendar year, after which the board may permit him thirty (30) days to pay for the purchase or affixation of insignia and shall require a bond as hereinabove provided.

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Payment of tax.

Section 15. If any person fails or refuses to pay the tax required by this act when due, the board shall proceed to determine the tax due from such information as the board can obtain and shall assess the tax so determined against such person and notify him of the amount thereof. After such notice such tax shall become due and payable, together with a penalty of five per cent (5%) of such tax, or five dollars ($5) per day for each day after the date of such notice, whichever is greater.

Tax meter users—invoices.

Section 16. All tax meter users shall keep for a period of one (1) year, all invoices of cigarettes purchased and imported by them, all receipts issued by them and insignia purchased, also, an accurate record of all sales of cigarettes by such tax meter users, showing the name and address of each purchaser, the date of sale, the quantity of each kind sold, the name of any carrier, the shipping point and destination. Such tax meter users shall permit the board, its assistants, authorized agents or representatives to examine all taxable items of cigarettes, invoices, receipts, books, paper, memoranda and records, as may be necessary to determine whether the tax meter machine has been used as required, or the insignia required by this act had been purchased and used, or to determine the amount of such tax as may be due or unpaid.

Violation and penalty—sellers.

Section 17. Every person who sells any packages of cigarettes which does not bear the insignia required by this act, and every person who shall use or consume within this state, any cigarette, unless the same shall be taken from the original package having affixed thereto the insignia required by this act, is guilty of a misdemeanor and shall be punished as hereinafter provided.

Same—possession.

Section 18. Every person having possession or control of, or who maintains a building or place where cigarettes are sold in violation of this act, or permits the same to be done in any place or building possessed, controlled or maintained by him, is guilty of maintaining and keeping a nuisance and the building or place so used, together with the personal property and fixtures used in connection therewith shall be deemed a nuisance, and such person shall be enjoined and such building or place, personal property and fixtures abated as a nuisance, at the instance of the state.

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Common carriers.

Section 19. Every common carrier hauling, transporting or shipping into or out of the state of Montana, from or to any other state, any cigarettes shall report in writing such shipments or deliveries to the board, on forms furnished by the board, giving the date, the person to whom the same was consigned and delivered and the quantity as shown by the bill of lading, and such other information as the board may require.

Violation and penalty—intrastate commerce.

Section 20. It shall be unlawful for any person to transport into, receive, carry or move from place to place within this state, except in the course of interstate commerce, any cigarettes which do not bear the insignia required by this act. Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished as hereinafter provided, and any motor vehicle, airplane, conveyance, vehicle or other means of transportation, in which cigarettes are being unlawfully transported, together with the cigarettes and other equipment or personal property used in connection with such transportation, and found in such means of transportation, shall be subject to seizure by the board, its duly authorized agent, or any sheriff or deputy, or other peace officer, and shall be subject to forfeiture in the manner hereinafter provided.

Seizure of cigarettes—disposition.

Section 21. Upon the seizure of any cigarettes, and within two (2) days thereafter, the person or officer making such seizure shall deliver an inventory of the property seized to the person from whom such seizure was made, if known, and file a copy thereof with the board. The person from whom the seizure was made, or any other person claiming an interest in the property seized, may apply for its return as provided in sections 95-713 through 95-716, R.C.M. 1947.

Powers of board.

Section 22. The board and its duly authorized agents are empowered to conduct investigations, inquiries, and hearings hereunder, and any member thereof, or any agent, is authorized to administer oaths and take testimony under oath, relative to the matter of inquiry or investigation. The board, or its authorized agent, may subpoena witnesses and require the production of books, papers and documents pertinent to such inquiry. The board, or its agent, after the hearing, shall make findings and an order, in writing, which findings and order shall be filed in the office of the board and open for public inspection.

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Review by board.

Section 23. Any person aggrieved by any action of the board or its duly authorized agents, under the provisions of this act, may apply to the board, in writing, for a hearing or rehearing thereon within thirty (30) days after such action of the board or its authorized agents. The board shall promptly consider such application, set same for hearing and notify the applicant of the time and place fixed for such hearing or rehearing, which may be at its office or in the county of the applicant. After such hearing or rehearing, the board may make any further or other order in the premises, as it may deem proper and lawful and shall furnish a copy thereof to the applicant. The board, on its own initiative, may order a hearing on any matter concerned with the administration of this act, upon at least ten (10) days notice in writing to the person or persons to be investigated.

Judicial review.

Section 24. Any person aggrieved by any action or decision of the board, made under the provisions of this act, may appeal therefrom to the district court of the county where appellant resides, which appeal shall be taken by notice of appeal in writing, setting forth the actions or decisions of the board, of which the appellant is aggrieved. Such appeal shall be perfected within thirty (30) days after notice of any action or decision of the board, and shall be taken by serving a notice of appeal upon the board and filing the same with the clerk of said court, together with a good and sufficient bond to the state of Montana. The condition of such bond shall be to the effect that appellant agrees to prosecute said appeal diligently, and if the court shall finally decide that the state is entitled to judgment, that appellant will pay the amount thereof together with costs of such appeal. The bond shall be in the form required by law and in such an amount as the court may require. The notice of appeal shall be signed by the appellant or his attorney, and the matter appealed shall be heard upon ten (10) days notice given by either party, unless a different time is specified by the court. Said district court may grant such relief as the law and the facts in the premises require.

Duty of board.

Section 25. The board is charged with the duty of administering and enforcing the provisions of this act, and the board, its members and agents, are hereby given the powers of peace officers, and are authorized and empowered to arrest any person violating any provision of this act,

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and to enter complaint before any court of competent jurisdiction, and to lawfully search and seize and use as evidance, any unlawful or unlawfully possessed license, stamp or insignia found in the possession of any person or place.

Rules and regulations.

Section 26. The board shall have the power and authority to prescribe all rules and regulations not inconsistent with the provisions of this act, for the detailed and efficient administration thereof. All such rules, regulations and orders promulgated shall be published promptly and a copy distributed to each wholesale licensee; be published cumulative annually, and maintained in full as a public record.

Enforcement—assistance of board.

Section 27. In the enforcement of this act, the board may call to its assistance, and it shall be the duty of any county attorney, or any peace officer, in this state, to assist the board in the enforcement of this act; and the board is hereby authorized to appoint such additional assistants, and to establish an additional division of cigarette enforcement, as may be required to carry out the provisions of this act. Whenever any cigarettes are found in the place of business of any unlicensed wholesaler, retailer or other person, without the insignia affixed and cancelled, or not marked as having been received by the unlicensed wholesaler, retailer or person within the preceding seventy-two (72) hours the presumption shall be that such cigarettes are kept therein in violation of the provisions of this chapter.

Remedies available to board.

Section 28. In the case of any violation of this chapter, the board shall be entitled to sue, in the district where the board maintains its principal office for the amount of the unpaid tax and costs, including reasonable expense of the board in effecting collection of the unpaid tax. Where the court finds the failure to pay the tax has been willful, the court must, in addition, assess damages in treble the amount of the tax found to be due.

Administrative powers of board.

Section 29. The board is hereby authorized to employ such clerical and field assistants as may be necessary to properly administer the provisions of this law. All moneys collected under the provisions of subdivision (2) of section 84-5606, less the expense of collecting all the taxes levied, imposed and assessed by said section 84-5606, shall be paid to the state treasurer and deposited in the general fund of the state. All taxes levied, imposed and assessed

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under the provisions of subdivision (3) of said section 84-5606 shall, when collected, be paid to the state treasurer and credited to a subfund in the sinking fund and shall, while any of the bonds hereafter issued and sold for the purpose of paying an honorarium, or adjusted compensation, to the residents of Montana who were in military service in the military forces of the United States in World War I or World War II, or any of the interest thereon, remain unpaid, be available for the payment thereof.

All taxes levied, imposed and assessed under the provisions of subdivision (4) of said section 84-5606 shall, when collected, be paid to the state treasurer and credited to a subfund in the sinking fund, which shall, while any of the bonds hereafter issued and sold, in addition to the bonds authorized by said Initiative Measure No. 54, as originally enacted, or any of the interest upon such additional bonds, remain unpaid, be used only for the payment thereof, and of the expenses of administration of this act.

The War Veterans' Compensation Fund established by Initiative No. 54, as amended by chapter 44, Laws of 1957, is abolished and all moneys in the fund are transferred to a subfund in the bond proceeds and insurance clearance fund. When all veterans' honoraria authorized by law have been paid, such moneys shall be transferred to the two accounts in the sinking fund established by this section.

After all of the oustanding War Veterans' Compensation Bonds and World War I Compensation Bonds have been paid or redeemed, or after the necessary funds have been set aside for their payment or redemption, the balance of the proceeds theretofore collected under the provisions of subdivisions (3) and (4) of said section 84-5606 shall be transferred to the sinking fund account provided for in section 79-2203, R.C.M. 1947.

Other violations and penalties.

Section 30. Unless hereinbefore expressly otherwise provided, the violation of any provision of this act shall constitute a misdemeanor, and any person violating any such provision shall be punished by a fine of not less than one hundred dollars ($100), or more than five hundred ($500), or by imprisonment in the county jail for not less than

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thirty (30) days or more than six (6) months, or by both such fine and imprisonment; and if such person is the holder of a license issued under this act, such license shall be revoked by the board for a period of one (1) year.

Saving clause.

Section 31. The provisions of this act shall be severable and if any of its provisions shall be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Repealing clause.

Section 32. Sections 84-5601 through 84-5605, R.C.M. 1947, and sections 84-5607 through 84-5623, R.C.M. 1947, are repealed.

Approved: February 27, 1969.

CHAPTER NO. 141

An Act Creating an Interim Committee to Conduct a Comprehensive Study of the Administration and Operation of the Montana Highway Department in Cooperation With the Highway Commission; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Committee to study Montana highway department.

Section 1. There is created an interim committee to conduct a comprehensive study of the administration and operation of the Montana highway department in cooperation with the Montana highway commission.

Members.

Section 2. (1) The committee shall be composed of two (2) members of the house, one (1) from each political party, appointed by the speaker and two (2) members of the senate, one (1) from each political party, appointed by the committee on committees.

(2) The committee shall elect a chairman from its membership.

(3) In the event of a vacancy occurring on the committee, the chairman shall appoint a member, belonging to the same body and political party as did the former member, to fill the vacancy.

Replacement of members.

Section 3. If a vacancy occurs during the interim on the committee from the senate, the president pro tem

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ad interim shall appoint a replacement of like party. If a vacancy occurs during the interim on the committee from the house, the speaker shall appoint a replacement of like party.

Authority of committee.

Section 4. The committee is delegated authority to hold hearings, administer oaths, subpoena and compel the attendance of witnesses, and to take evidence in the conduct of this study.

Same.

Section 5. The committee is authorized to expend any funds necessary to consult with personnel of the bureau of public roads and the highway departments of other states.

Officers and staff.

Section 6. The chairman of the committee, with the consent of the other members, may appoint an executive secretary and other staff members as needed, define their duties, and set their salaries.

Secretarial and legal assistance.

Section 7. The highway department shall furnish secretarial and legal aid to the committee as requested by the committee.

Expenses.

Section 8. All expenses of the interim committee shall be paid out of the earmarked revenue fund, state highway account.

Committee member expenses—staff.

Section 9. (1) Each member of the interim committee and temporary members shall be reimbursed for actual and necessary expenses incurred on committee business, and may receive any per diem amount authorized for members of interim legislative committees.

(2) Staff personnel shall be reimbursed for commercial travel, costs, and for expenses as provided for state employees and elected officials in sections 59-538, 59-801, and 59-802, R.C.M. 1947.

Records.

Section 10. The committee shall maintain complete records of all evidence gathered, including a written transcript of all testimony taken at hearings, and shall submit a written report to the forty-second legislative assembly.

Appropriation.

Section 11. There is appropriated twenty-thousand dollars ($20,000) from the earmarked revenue fund, state

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highway account, to the committee to carry out the purposes of this act.

Effective immediately.

Section 12. This act is effective on passage and approval.

Approved: February 27, 1969.

CHAPTER NO. 142

An Act to Require Corporations to File Reports of Changes in Federal Taxable Income, to Provide for Extending the Time for Assessment of Tax When the Required Reports are not Filed as Prescribed and to Require the Filing of Copies of Federal Income Tax Returns Upon Request by the State Board of Equalization; Amending Sections 84-1508.2 and 84-1517, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1508.2, R.C.M. 1947, is amended to read as follows:

Periods of limitation—limitations for modification of additional tax extended if taxpayer fails to report change in federal tax—waiver.

"84-1508.2. **Periods of limitation**—*limitations for notification of additional tax extended if taxpayer fails to report change in federal tax-waiver.* (1) Except as otherwise provided *in this section and* in section 84-1513, *R.C.M. 1947,* no deficiency shall be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within five (5) years from the date the return was filed. For the purposes of this section a return filed before the last day prescribed for filing shall be considered as filed on *such last* day. Where before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period agreed upon. *The limitation prescribed for giving notice of a proposed assessment of additional tax shall not apply when a taxpayer has failed to file a report of changes in federal taxable income or an amended return as required by section 84-1517, R.C.M. 1947, until five (5) years after the federal changes*

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become final or the amended federal return was filed, whichever the case may be.

(2) No refund or credit shall be allowed or paid with respect to the year for which a return is filed after five (5) years from the last day prescribed for filing the return or after one (1) year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period the taxpayer files a claim therefor or the state board of equalization has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) of this section to extend the time within which the state board of equalization may propose an additional assessment, the period within which a claim for refund or credit may be filed, or a credit or refund allowed in the event no claim is filed, shall automatically be so extended."

Section 2. Section 84-1517, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1517. **Failure to make return—estimate and investigation of net income**—*copy of federal return to be furnished on request—report of change in federal tax—copy of amended federal returns. (1)* If any taxpayer fails to make return as herein required, the state board of equalization is authorized to make an estimate of the taxes due from such taxpayer from any information in its possession. Failure to make return—estimate and investigation of net income—copy of federal return to be furnished on request—report of change in federal tax—copy of amended federal returns.

(2) The state board of equalization, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of net income of any corporations where information has been obtained, shall also have power to examine or to cause to have examined by any agent or representative designated by it for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return, and may require the attendance of any officer or employee of the corporation rendering such return or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for its information.

(3) Every corporation shall, upon request of the state

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board of equalization, furnish a copy of its federal income tax return and the computation schedule filed for such taxable year or years as the said board may specify in its request. If the amount of a corporation taxable income reported on its federal income tax return or the computation schedule filed for any taxable year is changed or corrected by the United States internal revenue service or other competent authority, the corporation shall report such proposed change or correction to the state board of equalization within ninety (90) days after receiving official notice thereof. Any corporation filing an amended federal income tax return changing or correcting its taxable income for any taxable year shall also file an amended return with the state board of equalization within ninety (90) days thereafter."

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved: February 27, 1969.

CHAPTER NO. 143

An Act to Amend Section 84-1503, R.C.M. 1947, to Prohibit Taxpayers From Arbitrarily Changing a Method of Allocating or Apportioning Income to Gain a Tax Advantage and Deleting the Requirement That the State Board of Equalization Publish Once a Year all Rules and Regulations Relating to Section 84-1503, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1503, R.C.M. 1947, is amended to read as follows:

Segregation of income within and without state.

"84-1503. **Segregation of income within and without state.** If the income of any corporation from sources within the state cannot be properly segregated from income without the state, then, in that event, the amount of the net income returned shall be that proportion of the taxpayer's total net income which the taxpayer's gross business done in the state of Montana bears to the total gross business of the taxpayer, and apportionment shall be made under the rules and regulations pre-

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scribed by the state board of equalization, giving consideration to sales, property and payroll and such other factors as may be deemed applicable; provided, however, that the state board of equalization shall, upon the presentation of satisfactory evidence, determine that the income from sources within the state of Montana may be properly segregated from income from sources without the state of Montana and shall allow separate accounting. The board shall publish *not less than once every three (3) years,* all rules and regulations *and all changes in rules and regulations as they occur* pertaining to this section. All decisions by the board under this section shall be subject to judicial review in an action prosecuted by the corporation in the district court of Lewis and Clark county. The taxpayer *may not* change from *apportionment by formula to separate accounting or vice versa* without first obtaining permission from the board."

Approved: February 27, 1969.

CHAPTER 144

An Act Amending Section 92-707, R.C.M. 1947, to Reduce the Time That a Disability Must Continue From Six (6) Weeks to One (1) Week for Compensation to Be Paid From the Date of Injury When an Employee Has No Wife, Child, Father, Mother, Brother or Sister Residing Within the United States Who Would Be Entitled to Compensation in Case of His Death, and to Reduce the Time That a Disability Must Continue From Three (3) Weeks to One (1) Week for Compensation to be Paid From the Date of Injury When an Employee Has a Beneficiary or a Major or Minor Dependent Residing Within the United States.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 92-707, R.C.M. 1947, be amended to read as follows: Amending clause.

"92-707. **Compensation from what date paid.** When an injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, no compensation shall be allowed or paid during the first Compensation from what date paid.

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week of any injury, except as may be required by the provisions of the preceding section, but if disability continues *one (1) week,* compensation shall be paid from the date of injury. Where the injured employee has a beneficiary or a major or minor dependent residing within the United States who would be entitled to compensation in case of his death, no compensation shall be paid for the first week of any injury, but if disability continues *one (1) week,* compensation shall be paid from the date of injury; provided, that separate benefits of medical and hospital services shall be furnished from date of injury."

Approved: February 27, 1969.

CHAPTER 145

An Act Making Permanent the State Law Enforcement Communications System; Providing for an Administrative Committee to Administer the Provisions of the Act; Providing for Duties of the State Attorney General in Administering the Act; Providing for Charges to Be Established and Providing for Disposition of Moneys Collected.

Be it enacted by the Legislative Assembly of the State of Montana:

Establishment of law enforcement teletypewriter communications system authorized.

Section 1. The attorney general is hereby authorized to establish a permanent law enforcement teletypewriter communications system for the purpose of connecting federal, state, county, and city law enforcement agencies by teletype, and is further authorized to bring into the network, should he and they so desire, any department of Montana state government or its subdivisions outside of law enforcement activities when, in the opinion of the attorney general and the state department or subdivision, such inclusion will materially aid the law enforcement agencies of the state of Montana or its subdivisions in the fight against crime.

Committee—membership—vacancies.

Section 2. To carry out the provisions of the act, the governor shall appoint a state law enforcement teletypewriter communications committee consisting of seven (7) members, each member representing a governmental entity which is participating in the communications system. Membership in the committee shall be as follows:

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One (1) county sheriff from a county of the first class.

One (1) county sheriff from a county other than a first class county.

One (1) chief of police from a city of the first class.

One (1) chief of police from a city other than a first class city.

One (1) county commissioner from a county not otherwise represented.

One (1) city mayor from a city not otherwise represented.

One (1) officer or employee of a state department or agency which participates in the communications system. The term of office of members appointed to the committee shall be as follows: Three (3) of the original appointees shall serve three (3) year terms, such terms to be determined by lot or drawing among the members present at the initial meeting of the committee, and the balance of the members of the committee shall serve for two (2) years each. Vacancies on the committee shall be filled immediately by the governor. The committee shall meet at such times and at such locations as the attorney general may require and may elect officers. Members shall serve without committee compensation since, by the nature of their duties and official capacities, they are full-time, paid, state or subdivision employees subject to compensation and certain travel and per diem allowances in connection with their positions. The committee shall advise the attorney general as to the operation of the state law enforcement teletypewriter communications system, and shall suggest such changes as determined are necessary, and the attorney general shall, within the limits of the funds available under the provisions of this act, make every effort to effectuate the changes suggested, and shall work toward refinement of the system at all levels.

Section 3. To carry out the provision of this act, the attorney general is:

Authorization of attorney general.

(a) Authorized to purchase, lease, or otherwise acquire facilities and equipment necessary to accomplish the purposes of this act, but only after consultation with the committee, and only upon approval of the committee re-

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garding actual physical equipment to be purchased or leased as herein provided.

(b) The attorney general is authorized to employ such personnel as may be necessary to operate such facilities, within the framework of any funds budgeted or prorated on a charge basis against participating agencies as herein identified, but only after approval of the committee.

(c) The attorney general is hereby authorized to establish a monthly operational charge for the teletypewriter communications network, exclusive of personnel services, and such charge shall be prorated among all the various agencies using the system. Such charge shall be approved by the communications committee and shall be billed monthly to the agencies, and payments made as a result of the billing shall be remitted to the attorney general and shall be deposited by him in a special account in the state treasurer's office, and the state auditor is hereby authorized to draw warrants on this account upon request of the attorney general when such moneys are needed to pay any of the costs of keeping the system operative. A strict accounting shall be kept of all receipts and disbursements and shall be available as a matter of record to members of the appropriations committee of the house of representatives as they may require in the performance of their duties. Law enforcement agencies, other than state of Montana or any of its subdivisions, that become ninety (90) days delinquent in payment of any fees approved and assessed hereunder shall be notified that they will be removed from the network, and the committee herein provided shall take the necessary steps to carry out this provision.

(d) A special assessment pro rata shall be made against all participating agencies for personnel necessary to assist in the operation at one central location or key point at which there is a federal intertie, and this assessment shall be made monthly as is the operational assessment, and the same shall be transmitted and deposited and drawn by warrant as are other warrants as previously provided under (c) above, except that the assessment shall not be levied against the one central station for which the assessment is made. Assessments made under the provisions of this act shall be approved by the committee.

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Connection to system.

Section 4. Any county, city, or other law enforcement agency may, with approval of the committee and the attorney general, connect to the system and participate in it upon payment of, or agreement to pay, those costs established by the committee.

Cooperation with federal agencies.

Section 5. The attorney general is hereby directed to contact federal law enforcement agencies or officials relative to federal cost sharing in the teletypewriter communications system, and if such funds are available from federal sources, the attorney general is hereby authorized to sign agreements with the federal agencies, subject to approval of the communications committee, and any federal funds received in any biennium for which Montana funds have been appropriated shall be deposited to the credit of the communication fund and shall be used, if at all possible, to reduce the spending of moneys as herein appropriated from the general fund.

Report by attorney general.

Section 6. The attorney general shall prepare a report in detail covering the operations of the communications network, the actions of the committee, the accounting of all moneys received and expended, and the need to expand or improve the system, and shall submit such report to the appropriations committee of every legislative assembly at the time funds are requested for the administration of this act.

Approved: February 27, 1969.

CHAPTER 146

An Act Relating to the Long-Range Building Program; Increasing the Maximum Amount of Bonds Which May Be Issued for Such Purposes; Increasing the Maximum Interest Rates Thereon to Five and One-Half Per Centum (5½%) Per Annum; Amending Sections 79-2202 and 79-2205, R.C.M. 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 79-2202, R.C.M. 1947, is amended to read as follows:

Long-range building program bonds.

"79-2202. **Long-range building program bonds.** (1) When authorized by the legislative assembly, and within

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the limits of such authorization and the further limitations in this section, the board may issue and sell bonds of the state of Montana in such manner as it shall deem necessary and proper to provide funds to finance the long-range building program. All bonds issued hereunder shall contain a statement that they are not and shall never become a debt or liability of the state of Montana within the meaning of any constitutional or statutory limitation or provision, and that no ad valorem tax may be levied upon property within the state of Montana to pay principal thereof or interest thereon, but that the bonds and interest are payable solely from the proceeds of special taxes pledged and appropriated to the sinking fund account as provided in this chapter, and shall contain the pledge of the state of Montana to continue to levy and collect said special taxes and to apply the proceeds thereof to the retirement of said bonds and the payment of interest thereon. Bonds may be issued hereunder to provide funds for the payment or redemption of the outstanding War Veterans' Compensation Bonds and World War I Veterans' Compensation Bonds issued pursuant to Initiative No. 54, and the amendment thereof, chapter 270, Laws of 1963, and the outstanding long-range building program bonds issued under this section.

(2) Each series of such bonds shall be issued by the board upon request of the controller, in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest at such rate or rates not exceeding *five and one-half* per centum *(5½%)* per annum, maturing at such times not exceeding thirty (30) years from date of issue, subject to redemption at such earlier times and prices and upon such notice, and payable at the office of such fiscal agency of the state of Montana, as the board shall determine subject to the limitations contained in this section.

(3) In the issuance of each series of such bonds, the amount, maturities, and interest rates thereof shall be fixed in such manner that the maximum amount of principal and interest to become due in any subsequent fiscal year on all such bonds then outstanding and on the series so to be issued will not exceed fifty per centum (50%) of the average annual amount collected during the three (3)

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then next preceding fiscal years, from the special taxes pledged by law to the sinking fund account at the time of such issuance.

(4) In all other respects the board is authorized to prescribe the form and terms of the bonds, and shall do whatever is lawful and necessary for their issuance and payment. Such bonds and any interest coupons appurtenant thereto shall be signed by the members of the state board of examiners, and the bonds shall be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

(5) All proceeds of bonds issued hereunder shall be deposited in the clearance fund account, except that any premiums and accrued interest received shall be deposited in the sinking fund account. For the purposes set forth in subdivision (1) hereof, the state treasurer acting by and with the approval of the state board of examiners may set aside such funds as may be necessary to assure the redemption, or payment at maturity, of all of the oustanding War Veterans' Compensation Bonds and World War I Veterans' Compensation Bonds and as may be necessary or required to fulfill the obligations of the state of Montana by virtue thereof. With such funds the state treasurer with the approval of the state board of examiners is hereby authorized to call said bonds for redemption in accordance with the provisions thereof, at any redemption date, to pay said bonds on the maturity dates thereof, to deposit securities in escrow for the purpose of assuring such payments at future dates, and to take such other steps as may be necessary to fulfill all of the obligations of the state of Montana existing under the provisions of said bonds and the laws and resolutions authorizing the same.

(6) The state board of examiners is hereby authorized to employ a fiscal agent to assist it in the performance of its duties hereunder."

Section 2. Section 79-2205, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-2205. **Authorization of bonds.** The board is authorized to issue and sell long-range building program Authorization of bonds.

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bonds in an amount not exceeding *eighteen million dollars ($18,000,000)*, over and above the amount of the long-range building program bonds *previously authorized* upon the conditions and in the manner stated in this chapter. The board is also authorized to issue and sell long-range building program bonds in such amount as may be required to provide funds for the payment or redemption of outstanding bonds as contemplated in section 79-2202, subdivisions 1 and 5."

Effective immediately.

Section 3. This act shall be in force and effect from and after its passage and approval.

Approved: February 27, 1969.

CHAPTER 147

An Act Allowing the State Board of Equalization, in Its Discretion, to Issue a Waiver of Inheritance Tax in the Event of the Death of Any Person Leaving Any Real Property or Personal Property, or Both, in Joint Tenancy With a Surviving Spouse if the Value of the Property of the Decedent Is Less Than the Inheritance Exemption Allowed by Law to the Surviving Spouse.

Be it enacted by the Legislative Assembly of the State of Montana:

Waiver of inheritance tax—property held in joint tenancy with surviving spouse.

Section 1. Notwithstanding any provision of law or statute in conflict herewith, the state board of equalization, in its discretion, is authorized to issue a waiver of inheritance tax in the event of the death of any person leaving any real property or personal property, or both, in joint tenancy with a surviving spouse if the value of the property of the decedent is less than the inheritance exemption allowed by law to the surviving spouse.

Approved: February 27, 1969.

CHAPTER 148

An Act Amending Section 79-602, R.C.M. 1947, to Clarify the Purposes for Which the State Controller may Authorize State Agencies to Establish and Maintain Contingent Revolving Accounts.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-602, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-602. **Contingent revolving accounts—when established.** The state controller may authorize the establishment and maintenance at any and all of the state institutions, or in any of the departments, boards, or commissions, of Montana of contingent revolving accounts, transferring in trust to the business offices of said institutions such sums of money as may appear necessary, to be used by said institutions for the payment of demands requiring immediate cash payment, *such as payment of minor invoices, invoices for which discount period is too short to take advantage of the discount if payment is made by warrant, freight and express charges, travel advances, postage, publications requiring remittance to accompany the order, and the establishment of cash change funds, all* under specific regulations to be established by the state controller. But each and every state institution granted a contingent revolving account shall report to the state controller monthly all transactions involving such contingent revolving accounts, with proper vouchers for every payment made therefrom. The state controller may cancel such authorizations and recall such funds at pleasure." Contingent revolving accounts —when established.

Approved: February 27, 1969.

CHAPTER 149

An Act Amending Section 11-2206, R.C.M. 1947, to Authorize the Creation of Special Improvement Districts Unless a Protest Against the Same Is Made by the Owners of More Than Fifty Percent of the Property Affected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 11-2206, R.C.M. 1947, be and the same is hereby amended to read as follows: Amending clause.

"11-2206. **Protests against proposed work.** (1) At any time within fifteen days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for said work may make written protest against the proposed Protests against proposed work.

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work, or against the extent or creation of the district to be assessed, or both. Such protest must be in writing, and be delivered to the clerk of the city or town council or commission, not later than 5 o'clock p.m. of the last day within said fifteen days period, and said clerk shall endorse thereon the date and hour of its receipt by him.

(2) At the next regular meeting of the city or town council or commission after the expiration of the time within which said protest may be so made, the city or town council or commission shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive; provided, however, that, except as hereinafter provided, when the protest is against the proposed work, and the cost thereof is to be assessed against property fronting thereon, and the city or town council or commission finds that such protest is made by the owners of more than *fifty* per cent of the property fronting on the proposed work, or when the protest is against the proposed work, and the cost thereof is to be assessed upon the property within an extended district, and the city or town council or commission finds that such protest is made by the owners of more than *fifty* per cent of the area of the property to be assessed for said improvements, no further proceedings shall be taken for a period of six months from the date when said sufficient protest shall have been received by said clerk of the city or town council or commission; provided, however, that when the improvement proposed is the paving, with necessary incidentals, of not more than one (1) cross block, to connect with streets or avenues already paved for a continuous distance of three (3) blocks or more running (at) a right angle, or substantially so, with the single cross block so proposed to be paved, in such case the city or town council or commission shall have the right to overrule any and all objections and pave the proposed block with gravel and oil surface; and provided, too, that in case the improvement is the construction of a sanitary sewer such protest may be overruled by an affirmative vote of a majority of the members of the city or town council or commission; unless such protest is made by the owners of more than seventy-five per cent of the property affected as herein provided, in which event the protest must be sustained as to the construction of such sanitary sewer.

(3) In determining whether or not sufficient protests

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have been filed on a proposed district to prevent further proceedings therein, property owned by a county, city, or town shall be considered to the same effect as other property in the proposed district. The city or town council or commission may adjourn said hearing from time to time and protestants shall have the right to withdraw protest or protests at any time before final action thereon by the city or town council or commission."

Effective immediately.

Section 2. This act shall be in full force and effect immediately upon the date of its passage and approval.

Approved: February 27, 1969.

CHAPTER 150

An Act to Amend Section 22-108, R.C.M., 1947, to Shorten From One Year to Six Months the Time Within Which a Woman May File Her Renunciation and Elect to Take Against the Will of Her Deceased Husband.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 22-108, R.C.M. 1947, is amended to read as follows:

Renunciation and form of.

"22-108. **Renunciation and form of.** When a woman is entitled to an election under this chapter, she shall be deemed to have taken such devise, unless, within *six months* after the authentication or probate of the will, she shall deliver or transmit to the district court of the proper county a written renunciation, which may be in the following form, to wit: 'I, A B, widow of C D, late of the county of ....., state of Montana, do hereby renounce and quit all claims to the benefit of any bequest or devise made to me by the last will and testament of my said deceased husband, which has been exhibited and proved according to law (or otherwise, as the case may be), and I do elect to take in lieu thereof my dower, or legal share of the estate of my said husband,' which said letter of renunciation shall be filed in the office of the clerk of the district court, and shall operate as a complete bar against any claim which such widow may afterwards set up to any provision which may have been thus made for her in the will of any testator, in lieu of

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dower; and by thus renouncing all claims as aforesaid, such widow shall thereupon be entitled to dower in the lands or share in the personal estate of her husband."

Approved: February 27, 1969.

CHAPTER 151

An Act to Amend Section 89-324, R.C.M. 1947, to Reduce the Weather Modification Permit Fee to One Percent (1%).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 89-324, R.C.M. 1947, is amended to read as follows:

Permit fee—time of payment.

"89-324. **Permit fee—time of payment.** The fee to be paid by each applicant for a permit shall be equivalent to one per cent *(1%)* of the estimated cost of such operation, the estimated cost to be computed by the board from the evidence available to it. The fee is due and payable to the board as of the date of issuance of the permit; however, if the applicant is able to give satisfactory security for the payment of the balance he may be permitted to commence the operation, and a permit may be issued therefor, upon the payment of not less than fifty per cent (50%) of the fee. The balance due shall be paid within three (3) months from the date of termination of the operation as prescribed in the permit."

Approved: February 27, 1969.

CHAPTER 152

An Act Amending Sections 15-2202, 15-2285, 15-22-104, 15-22-109, 15-22-110 and 15-22-121, R.C.M. 1947, in the Montana Business Corporation Act and Section 15-2383, R.C.M. 1947, in the Montana Nonprofit Corporation Act; Defining "Registered Agent;" Providing That no Tax Clearance Certificate Is Needed Before Filing A Decree of Dissolution in an Action Brought by the Attorney General; Providing That Certain Documents Be Cer-

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tified Rather Than Authenticated; Providing That Certain Filing Fees Include the Fee for Issuing Mandatory Certificates and Deleting two Contradictory Fee Schedules; and Providing for an Immediate Effective Date Upon Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 15-2202, R.C.M. 1947, is amended to read as follows: Amending clause.

"15-2202. **Definitions.** As used in this act, unless the context otherwise requires, the term:

(a) 'Corporation' or 'domestic corporation' means a corporation for profit subject to the provisions of this act, except a foreign corporation. "Corporation" or "domestic corporation."

(b) 'Foreign corporation' means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this act. "Foreign corporation."

(c) 'Articles of incorporation' means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger. "Articles of incorporation."

(d) 'Shares' means the units into which the proprietary interests in a corporation are divided. "Shares."

(e) 'Subscriber' means one who subscribes for shares in a corporation, whether before or after incorporation. "Subscriber."

(f) 'Shareholder' means one who is a holder of record of shares in a corporation. "Shareholder."

(g) 'Authorized shares' means the shares of all classes which the corporation is authorized to issue. "Authorized shares."

(h) 'Treasury shares' means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been canceled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be 'issued' shares, but not 'outstanding' shares. "Treasury shares."

(i) 'Net assets' means the amount by which the total assets of a corporation, excluding treasury shares, exceed the total debts of the corporation. "Net assets."

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"Stated capital." (j) 'Stated capital' means, at any particular time, (1) the sum of the par value of all shares of the corporation having a par value that have been issued, (2) the amount of the consideration received by the corporation for all shares of the corporation without par value that have been issued, except such part of the consideration therefor as may have been allocated to capital surplus in a manner permitted by law, and (3) such amounts not included in clauses (1), and (2) of this paragraph as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sum as have been effected in a manner permitted by law. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation shall be determined on the same basis and in the same manner as the stated capital of a domestic corporation, for the purpose of computing fees, franchise taxes and other charges imposed by this act.

"Surplus." (k) 'Surplus' means the excess of the net assets of a corporation over its stated capital.

"Earned surplus." (l) 'Earned surplus' means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus. Earned surplus shall include also any portion of surplus allocated to earned surplus in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign.

"Capital surplus." (m) 'Capital surplus' means the entire surplus of a corporation other than its earned surplus.

"Insolvent." (n) 'Insolvent' means inability of a corporation to pay its debts as they become due in the usual course of its business.

"Filed." (o) 'Filed' with the secretary of state shall be deemed to be the time of receipt of a document by him, if he subsequently finds that it conforms to law. Such finding shall

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relate back to the time of receipt, but receipt by the secretary of state shall not of itself constitute 'filing' under this act.

(p) 'Registered agent' means the person appointed as an agent of the corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served." "Registered agent."

Section 2. Section 15-2285, R.C.M. 1947, is amended to read as follows: Amending clause.

"15-2285. **Articles of dissolution—tax clearance certificate.** If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth: Articles of dissolution—tax clearance certificate.

(a) The name of the corporation.

(b) That the secretary of state has theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed.

(c) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(d) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(e) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

No decree of voluntary dissolution shall be made and entered by any court, nor shall the clerk of the district court of any county or secretary of state file any such decree, or file any other document by which the term of existence of any corporation is terminated *except a decree of involuntary dissolution in an action brought by the at-*

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torney general, nor shall the secretary of state file any certificate of surrender by a foreign corporation of its right to do intrastate business in the state unless the corporation obtains from the state board of equalization and files with said court, clerk of the district court, or secretary of state as part of the original instrument effecting the dissolution or withdrawal, a certificate to the effect the state board of equalization is satisfied from the available evidence that all taxes imposed by Title 84 of the Revised Codes of Montana have been paid. The issuance of the certificate shall not relieve the corporation from liability for any taxes, penalties, or interest due the state of Montana.''

Amending clause.

Section 3. Section 15-22-104, R.C.M. 1947, is amended to read as follows:

Filing of application for certificate of authority.

"15-22-104. **Filing of application for certificate of authority.** Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state, together with a copy of its articles of incorporation and all amendments thereto duly *certified* by manual or facsimile signature by the proper officer of the state or country of incorporation.

If the secretary of state finds that such application conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such documents the word 'filed,' and the month, day and year of the filing thereof.

(2) File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to transact business in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application, affixed thereto by the secretary of state shall be returned to the corporation or its representative.''

Amending clause.

Section 4. Section 15-22-109, R.C.M. 1947, is amended to read as follows:

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"15-22-109. **Amendment to articles of incorporation of foreign corporation.** Whenever the articles of incorporation of a foreign corporation authorized to transact business in this state are amended, such foreign corporation shall, within sixty (60) days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly *certified* by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in the transaction of business in this state."

Amendment to articles of incorporation of foreign corporation.

Section 5. Section 15-22-110, R.C.M. 1947, is amended to read as follows:

Amending clause.

"15-22-110. **Merger of foreign corporation authorized to transact business in this state.** Whenever a foreign corporation authorized to transact business in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within sixty (60) days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly *certified* by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to transact business in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to transact in this state."

Merger of foreign corporation authorized to transact business in this state.

Section 6. Section 15-22-121, R.C.M. 1947, is amended to read as follows:

Amending clause.

"15-22-121. **Fees for filing documents and issuing certificates.** The secretary of state shall charge and collect for:

Fees for filing documents and issuing certificates.

(a) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars ($20).

(b) Filing articles of amendment and issuing a certificate of amendment, twenty dollars ($20).

(c) Filing restated articles of incorporation *and issu-*

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ing a restated certificate of incorporation, twenty dollars ($20).

(d) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty dollars ($20).

(e) Filing an application to reserve a corporate name, two dollars ($2).

(f) Filing a notice of transfer of a reserved corporate name, two dollars ($2).

(g) Filing a statement of change of address of registered office or change of registered agent, or both, two dollars ($2).

(h) Filing a statement of the establishment of a series of shares, five dollars ($5).

(i) Filing a statement of concellation of shares, five dollars ($5).

(j) Filing a statement of reduction of stated capital, five dollars ($5).

(k) Filing a statement of intent to dissolve, two dollars ($2).

(l) Filing a statement of revocation of voluntary dissolution proceedings, two dollars ($2).

(m) Filing articles of dissolution *and issuing a certificate of dissolution,* five dollars ($5).

(n) Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority, twenty dollars ($20).

(o) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty dollars ($20).

(p) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, ten dollars ($10).

(q) Filing a copy of articles of merger of a foreign

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corporation holding a certificate of authority to transact business in this state, twenty dollars ($20).

(r) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars ($5).

(s) Filing an annual report, five dollars ($5).

(t) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, two dollars ($2).''

Section 7. Section 15-2383, R.C.M. 1947, is amended to read as follows: Amending clause.

"15-2383. **Fees for filing documents and issuing certificates.** The secretary of state shall charge and collect for: Fees for filing documents and issuing certificates.

(a) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars ($20).

(b) Filing articles of amendment and issuing a certificate of amendment, twenty dollars ($20).

(c) Filing restated articles of incorporation and issuing restated certificate of incorporation, twenty dollars ($20).

(d) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty dollars ($20).

(e) Filing an application to reserve a corporate name, two dollars ($2).

(f) Filing a notice of transfer of a reserved corporate name, two dollars ($2).

(g) Filing a statement of change of address of registered office or change of registered agent, or both, two dollars ($2).

(h) Filing artices of dissolution *and issuing a certificate of dissolution,* five dollars ($5).

(i) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars ($20).

(j) Filing an application of a foreign corporation for

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an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, twenty dollars ($20).

(k) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars ($10).

(l) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, twenty dollars ($20).

(m) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars ($5).

(n) Filing an annual report, five dollars ($5).

(o) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, two dollars ($2).

Effective immediately.

Section 8. This act is effective on its passage and approval.

Approved: February 27, 1969.

CHAPTER 153

An Act Amending Section 4-240, R.C.M. 1947, to Provide for a More Equitable Apportionment of the Liquor Tax Paid to Counties and Used for Law Enforcement.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-240, R.C.M. 1947, is amended to read as follows:

License tax on liquor—amount—distribution of proceeds.

"4-240. **License tax on liquor—amount—distribution of proceeds.** The Montana liquor control board is hereby authorized and directed to charge, receive and collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of four per centum (4%) of the retail selling price on all liquor so sold and delivered. Said tax shall be charged and collected on all liquor brought into the state and taxed

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by the Montana liquor control board. The retail selling price shall be computed by adding to the cost of said liquor the state markup as designated by said board. Said four per centum (4%) license tax shall be figured in the same manner as the state excise tax and shall be in addition to said state excise tax. The Montana liquor control board shall retain the amount of such four per centum (4%) license tax so received in a separate account and shall apportion said license tax to the treasurers of the counties according to the amount of liquor sold by said board to the purchasers in each county. *Provided, however, in the case of purchases of liquor by a retail liquor licensee for use in his business, the board shall make such regulations as are necessary to apportion that proportion of license tax so generated to the county where the licensed establishment is located, for use as provided in section 4-241, R.C.M. 1947.* The Montana liquor control board shall pay quarterly to each county treasurer the proportion of the license tax due each county.

The county treasurer of each county shall retain one-fourth (1/4) of said license tax, and shall, within thirty (30) days after receipt therof, apportion the remaining three-fourths (3/4) thereof to the treasurers of the incorporated cities and towns within his county, said apportionment to be based in each instance upon the proportion which the gross sale of liquor in such incorporated city or town bears to the gross sale of liquor in all of the incorporated cities and towns in his said county.''

Approved: February 27, 1967.

CHAPTER 154

An Act to Amend Section 25-403, R.C.M. 1947, by Increasing from Three Dollars ($3) Per Day to Five Dollars ($5) Per Day the Compensation for Jurors in Courts Not of Record.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-403, R.C.M. 1947, is amended to read as follows: **Amending clause.**

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Compensation of jurors.

"25-403. **Compensation of jurors in courts not of record and at coroner's inquests.** Jurors in courts not of record, in both civil and criminal actions, shall receive *five* dollars *($5)* per day, but in civil actions the jury must be paid by the party demanding the jury, and must be taxed as costs against the losing party. Jurors in coroner's inquest shall receive for their services the sum of *five* dollars *($5)* per day."

Approved: February 27, 1969.

CHAPTER 155

An Act to Amend Sections 31-123 and 31-146, R.C.M. 1947, Changing the Word "Supervisor" to "Chief" When Referring to the Chief of the Montana Highway Patrol; and Making Driving Under the Influence of Any Drug to a Degree Which Renders Him Unsafe to Drive a Motor Vehicle as an Offense for Revocation of Driver License.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 31-123, R.C.M. 1947, is amended to read as follows:

Chief—board.

"31-123. *Chief*—**board.** (a) *Chief.* The *chief* of the Montana highway patrol.

(b) **Board.** The Montana highway patrol board acting directly or through its duly authorized officers or agents."

Amending clause.

Section 2. That section 31-146, R.C.M. 1947, is amended to read as follows:

Mandatory revocation of license by board or chief upon proper authority.

"31-146. **Mandatory revocation of license by board or** *chief* **upon proper authority.** The board or *chief* upon proper authority shall forthwith revoke the license or operating privilege of any operator or chauffeur upon receiving a record of such operator's or chauffeur's conviction or forfeiture of bail not vacated of any of the following offenses, when such conviction or forfeiture has become final:

1. Manslaughter resulting from the operation of a motor vehicle;

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2. Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug, *or willfully or knowingly under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle* or a combination thereof;

3. Any felony in the commission of which a motor vehicle is used;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor-vehicle accident resulting in the death or personal injury of another;

5. Perjury or the making of a false affidavit or statement under oath to the board under this act or under any other law relating to the ownership or operation of motor vehicles;

6. Conviction, or forfeiture of bail not vacated, upon three (3) charges of reckless driving committed within a period of twelve (12) months.''

Approved: February 28, 1969.

CHAPTER 156

An Act Amending Section 40-3314, R.C.M. 1947, Relating to Conduct of Insurance Examinations, Providing that Such Examination be Made Available at the Offices of the Insurance Commissioner in Helena, Montana, at Times Within His Discretion, But at Least Once a Month.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 40-3314, R.C.M. 1947 be amended to read as follows: Amending clause.

'40-3314. **Conduct of examinations.** (1) The commissioner shall make any examination required under section 40-3313 available to applicants with reasonable frequency, and at place in this state reasonable accessible to such applicants. The commissioner shall make any such examination available at his offices at Helena, Montana, *at times within his discretion, but at least once a month.* Conduct of examinations.

(2) All the kinds of insurance or class thereof, as re-

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ferred to in section 40-3313 (3), which the applicant proposes to transact under the license applied for, shall be included in the same examination.

(3) The commissioner shall give, conduct and grade all examinations in a fair and impartial manner, and without unfair discrimination as between individuals examined.

(4) The commissioner may require a reasonable waiting period before re-examination of an applicant who has failed to pass a previous examination covering the same kind or kinds of insurance."

Effective immediately.

Section 2. This act shall take effect from date of its passage and approval.

Approved: February 28, 1969.

CHAPTER 157

An Act to Amend Section 26-204, R.C.M. 1947, Making It Unlawful to Subscribe to Any Fish and Game License Application Containing a Material False Statement, and Making Such Application and Any License Issued Pursuant to It Void.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-204, R.C.M. 1947, is amended to read as follows:

Application for license.

"26-204. **Application for license.** Such license shall be procured from the state fish and game *director,* or any *state fish and game warden,* or any authorized agent of the state fish and game *director.* The applicant shall state his name, age, occupation, place of residence, post-office address, the length of time in the state of Montana, whether a citizen of the United States or an alien, and such other facts, data or descriptions as may be required by the commission. The statements made by the applicant shall be subscribed to before the officer or agent issuing said license.

It is unlawful to subscribe to any application containing a material false statement. Any material false statement contained in an application renders it, and any license is-

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sued pursuant to it, null and void. Any person violating any provision of this statute is guilty of a misdemeanor.''

Section 2. This act is effective upon its passage and approval. **Effective immediately.**

Approved: February 28, 1969.

CHAPTER 158

An Act Providing for the Apprehension and Detention of a Child Released from the Custody of One of the State Juvenile Facilities to the Supervision, Custody and Control of the Aftercare Division of the Department of Institutions, Who Has Violated the Terms of His or Her Aftercare Agreement.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A child released by the department of institutions from one of the state juvenile facilities to the supervision, custody and control of the aftercare division of the department of institutions shall, before being so released, sign an aftercare agreement containing the terms and conditions under which the child is so released. **Child released from state juvenile facility shall sign aftercare agreement.**

Section 2. The department of institutions has control over a child so released until he attains the age of twenty-one (21) years, subject, however, to the general jurisdiction of the various courts of Montana for acts committed by such child while under the control of the department. **Control over released child until age of 21.**

Section 3. A child who violates the terms and conditions of his or her aftercare agreement may be detained, day or night, by the department of institutions or by any law officer of the state of Montana or any county or city of the state of Montana, upon certificates in writing to such officer by the director of the aftercare division of the department of institutions or any aftercare counselor of the department of institutions to the effect that such child has violated the terms and conditions of his or her aftercare agreement. Upon detention by a law officer of the state of Montana as hereinbefore provided, such child shall on request be delivered to the custody of the aftercare division of the department of institutions who may **Violation of terms of agreement.** **Detention.**

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(1) return such child to one of the juvenile facilities of the state of Montana, or

(2) continue such child under the supervision of the aftercare division.

Effective immediately.

Section 4. This bill will be effective upon passage and approval.

Approved: February 28, 1969.

CHAPTER 159

An Act to Provide a Penalty for Untimely Filing of Mine or Well Producing Gas or Petroleum Net Proceeds Tax Statement of Yield, and the Collection Thereof, and to Provide for an Extension of Time for Such Filing; Amending Sections 84-6202 and 84-6213, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-6202, R.C.M. 1947, is amended to read as follows:

Statement of yield, penalty, extension of time.

"84-6202. **Statement of yield,** *penalty, extension of time.* Every person engaged in mining upon any mine whatsoever containing natural gas, petroleum, or other crude or mineral oil must on or before the thirty-first day of March in each year make out and deliver to the state board of equalization a statement of the gross yield of such natural gas, petroleum, or other crude or mineral oil from each mine owned or worked by such person during the next preceding calendar year, and the value thereof. Such statement shall be in the form prescribed by the state board of equalization and must be verified by the oath of such person or the manager, superintendent, agent, president or vice-president of such operation, association or partnership. Such statement shall show the following:

1. The name and address of the operator of the mine, together with a list in duplicate of the names and addresses of any and all persons owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons during the period covered by the statement.

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2. The description and location of the mine.

3. The number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the mine during the period covered by the statement.

4. The gross yield or value in dollars and cents.

5. Actual cost of extracting same from mine.

6. Cost of construction, repairs and betterments of mines.

7. Actual cost of fire insurance and workmen's compensation insurance.

Penalty for failure to file statement.

If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state board of equalization when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state board of equalization required by this section. The state board of equalization shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state board of equalization and deposited to the credit of the general fund of the state of Montana.

The state board of equalization shall upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section.

This penalty shall be in addition to penalties provided in section 84-6209.''

Amending clause.

Section 2. Section 84-6213, R.C.M. 1947, is amended to read as follows:

Lien of tax and penalty—enforcement of payment.

"84-6213. **Lien of tax** *and penalty*—**enforcement of payment.** The taxes and/or penalties on such net proceeds must be levied as the levy of other taxes is provided for, and every such tax *and/or penalty* is a lien upon the mine from which the natural gas, petroleum, or crude or

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mineral oil is mined or extracted, and is a prior lien upon all personal property and improvements used in the process of extracting such natural gas, petroleum, or crude or mineral oil; provided, however, that such personal or real property is owned by or under lease by the person who extracted said natural gas, petroleum, or other crude or mineral oil.

The tax *and/or penalty* on such net proceeds may be collected, and the payment thereof enforced, by the seizure and sale of the personal property upon which the said tax *and/or penalty* is a lien, in the same manner as other personal property is seized and sold for delinquent taxes, or by the sale of the mine and improvements, as provided for the sale of real property for delinquent taxes, or by the institution of a civil action for its collection in any court of competent jurisdiction; provided, however, that a resort to any one of the methods of enforcing collection, as herein provided for, shall not bar the right to resort to either or both of the other methods, but that any two or all of the methods herein provided for may be used until the full amount of such tax *and/or penalty* is collected."

Approved: February 28, 1969.

CHAPTER 160

An Act to Amend Section 93-801-5, R.C.M. 1947, to Delete Therefrom the Words "Unless Held in a Custodial or Fiduciary Capacity or" to Authorize the Reproduction of Records Held in a Custodial or Fiduciary Capacity Subject to the Same Provisions and Restrictions as Are Applicable to Reproduction of Other Business and Public Records.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-801-5, R.C.M. 1947, is amended to read as follows:

Reproductions of originals.

"93-801-5. **Reproduction of originals.** If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination

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thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding, whether the original is in existence or not, and an enlargement or facsimile of such reproduction is likewise admissible in evidence, if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original."

Approved: February 28, 1969.

CHAPTER 161

An Act to Amend Section 11-2705, R.C.M. 1947, to Provide That Property Owners Adjacent on Either Side Within the Same Block of an Area for Which a Zoning Regulation Change Is Proposed May Protest Against the Change.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2705, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2705. **Changes.** Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change, signed by the owners of twenty per centum (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred and fifty (150) feet therefrom, *or of those adjacent on either side thereof within the same block,* or of those directly opposite thereof extending one hundred and fifty (150) feet from the street frontage of such Changes—protest by adjacent property owners.

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opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (¾) of all the members of the city or town council or legislative body of such municipality. The provisions of the previous section relative to public hearings and official notice shall apply equally to all changes or amendments."

Approved: February 28, 1969.

CHAPTER 162

An Act Amending Section 4-116 of the R.C.M. 1947, Eliminating the Requirement of a Signed Purchase Order on Purchase of Liquor at State Retail Liquor Stores; Provided That No Delivery Shall Take Place Until the Purchaser Has Paid the Purchase Price.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-116 of the R.C.M. 1947, is hereby amended to read as follows:

Provisions concerning sale of liquor and beer by vendors.

"4-116. **Provisions concerning sale of liquor and beer by vendors.** A vendor may sell to any person such liquor as that person is entitled to purchase in conformity with the provisions of this act and the regulations made thereunder, *provided that no delivery shall take place until the purchaser has paid the purchase price.*"

Approved: February 28, 1969.

CHAPTER 163

An Act to Amend Section 84-4191, R.C.M. 1947, by Increasing the Deferred Payment Interest Rate Provided Therein From Four Percent (4%) to Eight Percent (8%) Per Annum.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4191, R.C.M. 1947, is amended to read as follows:

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"84-4191. **Terms of sale—sale contract—deed of conveyance.** Such sale shall be made for cash or, in the case of real property, on such terms as the board of county commissioners may approve; provided, however, that if such sale is made on terms at least twenty per cent (20%) of the purchase price shall be paid in cash at the date of sale and the remainder may be paid in installments extending over a period not to exceed five (5) years and all such deferred payments shall bear interest at the rate of *eight per cent (8%)* per annum.

Terms of sale—sale contract—deed of conveyance.

If a sale is made on terms, the chairman of the board of county commissioners shall execute a contract containing such terms as shall be provided by a uniform contract prescribed by the board of equalization and upon payment of the purchase price in full together with all interest which may become due on any installment or deferred payments, the chairman of the board of county commissioners shall execute a deed attested to by the county clerk to the purchaser, or his assigns, or such other instruments as shall be sufficient to convey all of the title of the county in and to the property so sold, provided that the county may in the discretion of the board of county commissioners reserve not to exceed six and one-fourth per cent (6¼%) royalty interest in the oil, gas, other hydrocarbons and minerals produced and saved from said land."

Section 2. This act is effective on its passage and approval.

Effective immediately.

Approved: February 28, 1969.

CHAPTER 164

An Act to Repeal Section 81-1709, R.C.M. 1947, Requiring Lessees of Oil and Gas Leases and Assigns to Furnish Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 81-1709, R.C.M. 1947, is hereby repealed.

Repealing clause.

Approved: February 28, 1969.

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CHAPTER 165

An Act Designating the State Board of Health as the Agency to Administer State Matching Funds to Be Used for the Construction of Water Pollution Control Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

State board of health to control funds for water pollution control facilities.

Section 1. The state board of health of the state of Montana hereinafter referred to as the state board of health, is hereby designated as the state agency which shall administer and control all funds to be appropriated by the state for the purpose of providing matching funds to local governments for the construction of water pollution control facilities. The state board of health shall promulgate rules and regulations, and establish standards for the use of such matching funds, by local governments, in the planning and construction of local water pollution control facilities.

Any funds appropriated by this act shall be used only to provide an increase in the aid from the federal government not otherwise obtainable and in no case shall exceed twenty-five per cent (25%) of the total cost of the project as participated in by the federal water pollution control administration.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved: February 28, 1969.

CHAPTER 166

An Act to Amend Section 26-105, R.C.M. 1947, Increasing the Per Diem for Members of the State Fish and Game Commission From Fifteen Dollars ($15) to Twenty Dollars ($20) Per Day, and Increasing the Annual Maximums From One Thousand Five Hundred Dollars ($1,500) to Two Thousand Dollars ($2,000) Per Annum for the Chairman and From One Thousand ($1,000) to One Thousand Five Hundred Dollars ($1,500) for the Other Commission Members.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-105, R.C.M. 1947, is amended to read as follows: Amending clause.

"26-105. **Compensation of commissioners.** The members of the commission shall receive no compensation for their services as members thereof, except a per diem of *twenty dollars ($20)* for each member for every day in actual attendance at the meetings of said commisssion, or in the execution of their duties as members of said commission; provided, however, that in no instance shall any member of said commission other than the chairman receive as said per diem a sum in excess of *one thousand five hundred dollars ($1,500)* in any one (1) year, provided that the chairman of the commission shall not receive a sum in excess of *two thousand dollars ($2,000)* in any one (1) year, and the members of said commission shall be allowed their actual and necessary traveling expenses, while performing their duties as members of said commission which shall be paid from the fish and game fund of the state of Montana upon presentation of proper vouchers therefor." Compensation of commissioners.

Approved: February 28, 1969.

CHAPTER 167

An Act to Amend Section 66-803, R.C.M. 1947, Relating to Requirements for Practicing or Teaching Cosmetologists or Operating a School of Cosmetology, by Adding Thereto a Requirement That Applicants to Take the Examination to Practice or Teach Cosmetology Must Be Either a Graduate of High School or Possess an Equivalent of a High School Diploma Recognized by the State Superintendent of Public Instruction; Adding Additional Qualifications for an Applicant to Take an Examination to Teach Cosmetology; and Providing That a Teacher or Student Teacher May Not Practice Cosmetology on the Public in a School.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-803, R.C.M. 1947, is amended to read as follows: Amending clause.

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Requirements for practicing or teaching cosmetology or operating a school of cosmetology.

"66-803. **Requirements for practicing or teaching cosmetology or operating a school of cosmetology.** Before anyone may practice or teach cosmetology, or any person, firm, or copartnership, or corporation may operate a school of cosmetology, such person, firm, or copartnership or corporation must obtain a license or certificate of registration from the state board as hereinafter provided. To be eligible to take the examination to practice cosmetology the applicant must not be less than eighteen (18) years of age and a graduate of the eighth grade school and must be of good moral character. Such applicant must have completed a continuous course of study of at least two thousand (2,000) hours in a registered beauty school, which course of study has been distributed over a period of not less than ten (10) months or more than twelve (12) months, and has received a diploma from said beauty school, or must have completed the course of study in cosmetology prescribed by the state board of education, ex officio regents of the university of Montana, for northern Montana college. Such person so qualified must file with the secretary of the state board, a written application to take such examination accompanied by a health certificate issued by a registered, licensed physician on a form supplied by the state board, and shall deposit with the secretary of the said board, the required examination fee and pass an examination as to his or her fitness to practice cosmetology.

Before an applicant may take an examination to obtain a license as a teacher of cosmetology, he must:

(1) Be twenty-one (21) years of age or older.

(2) Be a graduate of high school or possess an equivalent of a high school diploma recognized by the state superintendent of public instruction.

(3) Meet the following requirements:

(a) He must have an operator's license to practice cosmetology issued by the state of Montana, been actively engaged as a beauty operator for one (1) continuous year immediately prior to taking the examination, and have received a diploma from a registered school of cosmetology approved by the board certifying satisfactory completion of five hundred (500) hours of student teacher training; or

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(b) he must have been actively engaged as a beauty operator for three (3) continuous years immediately prior to taking the teachers' examination.

The applicant must qualify by filing an application as prescribed by the board and by taking and passing the examination prescribed and given by the board. The license must be renewed annually as provided in section 66-816, R.C.M. 1947.

Anyone failing twice to pass an examination may not apply to retake the examination:

(1) Sooner than six (6) months after the date of the second failure; or

(2) until he has taken two hundred (200) hours additional teacher training at a registered school of cosmetology approved by the board.

Provided, further, the board may grant to graduates of registered schools of this state upon the payment of a fee of two dollars ($2) a temporary license authorizing such graduates to practice as an operator under the supervision of a licensed cosmetologist, in the practice of hairdressing and beauty culture, for a period of not to exceed ninety (90) days, or until the next examination is held by the board. No such temporary license shall be issued except upon the presentation by the applicant of a certificate of graduation from a registered school of the state of Montana, and such temporary licenses shall not be renewable.

No person, firm or copartnership, or corporation shall operate a school for the purpose of teaching cosmetology for compensation unless a certificate of registration has been first obtained from the state board. Application for such certificate shall be filed with such board on such form as the board shall prescribe.

No teacher or student teacher shall be permitted to practice cosmetology on the public in a school. Any school that enrolls student teachers for a course of student teacher training shall not have at any one time more than one (1) student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

No school for teaching cosmetology shall be granted a

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certificate of registration unless it complies, or can comply, with the following requirements:

(1) Have in its employ a licensed teacher who shall be, at all times, in the immediate supervision of the work of said school, or such other teachers as the state board may determine is necessary for the proper conduct of said school. Provided, however, that there shall not be more then twenty-five (25) students to each such teacher.

(2) It shall possess such apparatus and equipment as the state board may determine is necessary for the ready and full teaching of all subjects or practices of cosmetology.

(3) It shall maintain a school term of not less than two thousand (2,000) hours extending over a period of ten (10) consecutive months, and shall prescribe a course of practical training and technical instructions equal to the requirements for state board examinations, which course of training and technical instruction shall be prescribed by the state board.

(4) It shall keep a daily record of the attendance of each student, establish grades, and hold examinations before issuing diplomas.

(5) No owner, or person in charge of a school of cosmetology shall permit any person to sleep in or use for residential purposes, or any other purpose which would tend to make the room unsanitary, any room used, wholly or in part for a school of cosmetology.

(6) Certificates of registration may be refused, revoked, or suspended, as provided in section 66-811.

(7) The state board shall have the power to prescribe such further rules and regulations as they deem necessary for the proper conduct of schools of cosmetology.

(8) The state board shall require of the person, firm, copartnership, or corporation operating a school to furnish a good and sufficient bond in the amount of $5,000 and in a form and manner to be prescribed by the board.

(9) No professional beauty shop shall be operated in connection with any school of cosmetology.

(10) The board may, by ruling, establish suitable curriculum for teachers' training in registered schools of cosmetology.

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If a licensee shall contract a communicable disease, endangering the public health, the board shall, upon proof of same, cancel or suspend his or her license until such time as said licensee can secure a physician's certificate showing that such licensee is free from a communicable disease."

Approved: February 28, 1969.

CHAPTER 168

An Act to Amend Section 75-3801, R.C.M. 1947, Relating to Elections for Additional Levies for School Purposes and Deleting the Requirement That Electors at Such Elections Be Registered.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-3801, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-3801. **District school taxes—election.** (1) Whenever the board of trustees of any school district shall deem it necessary to raise money by taxation in excess of the levy required to meet its maximum budgets as specified in section 75-1713.1, for the purpose of maintaining the schools of said district, or building, altering, repairing, or enlarging any schoolhouse or houses of such district, for furnishing additional school facilities for said district, or for any other purpose necessary for the proper operation and maintenance of the schools of said district, said board of trustees shall determine and fix the amount necessary and required for such purpose or purposes in addition to the maximum budgets hereinbefore provided for, and it shall submit the question of an additional levy to raise said excess amount to the qualified electors residing within the district who are taxpayers and whose names appear upon the last completed assessment roll of the county for state, county and school taxes, either at the regular annual election held in said district, or at a special election called for that purpose by the board of trustees of said district. Such election shall be called by resolution in the same manner as provided for other school elections, and shall be held prior to August first. District school taxes—election.

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(2) Whenever the board of trustees of any district or county high school shall deem it necessary to raise money by taxation in excess of the levy required to meet its maximum budgets as specified in section 75-4518.1 for the purpose of maintaining the high schools of said district or the county high school, or building, altering, repairing or enlarging any schoolhouse or houses of such district or county high school, for furnishing additional school facilities for said district, or county high school, or for any other purpose necessary for the proper operation and maintenance of the schools of said district, or county high school, said board of trustees shall determine and fix the amount necessary and required for such purpose or purposes in addition to any other legal levies on the district, including the approved addition to its foundation program hereinbefore provided for, and in the case of the district high school it shall submit the question of an additional levy to raise said amount to the qualified electors residing within the district who are taxpayers and whose names appear upon the last completed assessment roll of the county for state, county and school taxes, either at the regular annual election held in said district or at a special election called for that purpose by the board of trustees of said district. In the case of the county high school the board shall submit the question of an additional levy to raise said amount to the qualified electors residing within the county, exclusive of those residing within any district maintaining a district high school in the county, who are taxpayers and whose names appear upon the last completed assessment roll in the county for state, county and school taxes, either at the regular annual elections held in said districts, or special elections called for that purpose by the board of trustees of said county high school. Such election shall be called by resolution in the same manner as provided for other school elections, and shall be held prior to August first; and provided, further, that the provisions of this act shall not prevent the voting of a special levy on a high school district as provided for in chapter 130, Laws of 1949 (75-4609)."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved: February 28, 1969.

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CHAPTER 169

An Act Amending Sections 53-901 and 53-902, R.C.M. 1947, By Reducing the Time Period to Forty-Eight (48) Hours When a Vehicle May Be Left Parked or Standing Upon the Right of Way of a Public Highway.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-901, R.C.M. 1947, is amended to read as follows: Amending clause.

"53-901. **Prohibition against parking or leaving vehicles on public or private property.** No vehicle shall be parked or left standing upon the right of way of any publice highway *for a period longer than forty-eight (48) hours,* or *upon a* city street, any state, county or city property for a period longer than five (5) days." Prohibition against parking or leaving vehicles on public or private property.

Section 2. Section 53-902, R.C.M. 1947, is amended to read as follows: Amending clause.

"53-902. **Taking vehicle into custody.** (1) The following law enforcement agencies may take into custody any motor vehicle found abandoned for a period of *forty-eight (48) hours* or more on any public highway, or *for a period of five (5) days or more on any* city street, or public property. Taking vehicles into custody.

(a) The Montana highway patrol if the vehicle is upon the right of way of any public highway other than county road.

(b) The sheriff of the county if the vehicle is upon the right of way of any county road or private property within the county.

(c) The city police if the vehicle is upon a city street within the city.

(2) The Montana highway patrol, sheriff of the county, or the city police may use its, or his personnel, equipment and facilities for the removal and preservation of the vehicle, or may hire other personnel, equipment and facilities for those purposes."

Approved: February 28, 1969.

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CHAPTER 170

An Act to Amend Section 92-902, R.C.M. 1947, Relating to the Minimum Assessment to Be Paid to the Industrial Accident Board at the Time of Filing of Proof of Solvency Under the Workmen's Compensation Act of Montana, Plan Number One, Providing for a Minimum Assessment in the Amount of Two Hundred Dollars ($200) Per Year.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-902, R.C.M. 1947, be amended to read as follows:

Proof of solvency of employer electing plan No. 1 to be filed.

"92-902. **Proof of solvency of employer electing plan No. 1 to be filed.** Every such employer now or hereafter engaged in the state of Montana, in the industries, trades, works, occupations, or employments herein mentioned, and who shall have elected to be bound by such compensation plan No. 1, shall file such proof of his solvency within the time and in such form as may be prescribed by the rules or orders of the board.

The board shall levy an assessment in the amount of not to exceed two hundredths of one per cent of the annual payroll of such employer in Montana, for the preceding fiscal year, which assessment shall be paid to the board by said employer at the time of filing of proof of solvency.

No assessment shall be in an amount less than *two hundred dollars ($200).*

If such employer had no payroll in Montana for the entire preceding fiscal year, the assessment shall be based on the estimated payroll for the year in which election is made.

The treasurer of the board shall pay the amounts so collected into the state treasury."

Approved: February 28, 1969.

CHAPTER 171

An Act Deleting the Provision Concerning the Fee the Clerk of the District Court is to Charge in Naturaliza-

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tion Proceedings because the Fees Presently Fixed by Congress Control to the Exclusion of State Legislation; Amending Section 25-210, R.C.M. 1947, Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-210, R.C.M. 1947, is amended to read as follows: Amending clause.

"25-210. **Fees for naturalization.** The clerk of the district court shall collect from every person to whom a final certificate of naturalization is issued, at the time the same is issued, *all fees authorized by law.* All fees must be accounted for and paid to the county treasurer as provided by section 25-203, and shall be credited to the general fund of the county." Fees for naturalization.

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved: February 28, 1969.

CHAPTER 172

An Act Requiring Persons Purchasing Hunting, Fishing and Trapping Licenses to Possess a Wildlife Conservation License, and Providing that Fees for Such Purchases be Deposited with the State Treasurer in the Earmarked Revenue Fund to the Credit of the State Fish and Game Commission in Accordance with the Provisions of Section 26-121, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It shall be unlawful for any person or persons to purchase any hunting, fishing or trapping license without first having obtained a wildlife conservation license as hereinafter provided. Wildlife conservation license—when required.

Section 2. A wildlife conservation license shall be sold upon written application in such form and containing his name, age, occupation, place of residence, post office address, length of time in the state of Montana, whether a citizen of the United States or an alien and present a driver's license or other identification to substantiate such Application—fees for residents and non-residents.

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information and shall be subscribed by the applicant. Hunting, fishing or trapping licenses in the form of tags or stamps issued to a holder of a wildlife conservation license must be affixed to or recorded on the wildlife conservation license according to such regulations as the commission may prescribe. Residents, as defined by section 26-202.3, may purchase a resident's license for a fee of twenty-five cents ($.25) and all others a non-resident's license for a fee of one dollar ($1). Licenses issued shall be void after the thirtieth (30th) day of April next succeeding their issuance.

Wildlife conservation license required.

Section 3. It shall be unlawful for any license agent to sell any hunting, fishing or trapping license to any person who does not present his wildlife conservation license at the time of application for such licenses.

False statement on application.

Section 4. Any person who shall subscribe to any false statement in application for a wildlife conservation license or violate any other provision of this act shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished as provided in section 26-324.

Disposition of fees.

Section 5. The fees from the wildlife conservation license shall be delivered to the state treasurer and deposited by him in the earmarked revenue fund to the credit of the state fish and game commission in accordance with the provisions of section 26-121.

Effective date.

Section 6. This act is effective May 1, 1969.

Approved: February 28, 1969.

CHAPTER 173

An Act to Amend Section 75-506.1, R.C.M. 1947, Increasing the Number of Indians From Forty-Eight (48) to Ninety-Six (96) Who May be Selected for Attendance at the Units of the Montana University System Without Payment of Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-506.1, R.C.M. 1947, is amended to read as follows:

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"75-506.1. **Indians permitted to attend without payment of fees—selection.** Any person of one-fourth (1/4) Indian blood or more who shall have completed the regular course of a four-year accredited high school or federal Indian school in Montana, and shall have shown evidence of studious and industrious habits, shall be entitled, upon the recommendation of the state board of education, to enroll in any of the units of the *Montana university system* for four (4) years without the payment of fees required of students attending such institutions. The number of such Indians chosen each year shall not exceed *ninety-six (96)*. Rules and regulations governing the selection of these pupils shall be formulated by the state board of education and the state superintendent of public instruction is hereby designated as the agent of the board in carrying out this act."

Indians permitted to attend without payment of fees—selection.

Approved: February 28, 1969.

CHAPTER 174

An Act Amending Section 15-2290 by Adding a Sub-Paragraph (e) Authorizing Jurisdiction of Courts to Liquidate the Assets and Affairs of Corporations Which Were Dissolved Under Corporate Laws Effective Prior to the Effective Date of Chapter 198, Laws of Montana 1967, and Amending Section 15-2295 Authorizing the Court in Such Proceedings to Make an Order and Decree of Final Distribution and Liquidation, Discharge Receivers and Discharge All Surviving Directors of such Dissolved Corporations from Their Duties and Responsibilities as Trustees for the Creditors and/or Shareholders of Such Corporations and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 15-2290 R.C.M. 1947, is amended to read as follows:

Amending clause.

"15-2290. **Jurisdiction of court to liquidate assets and business of corporation.** The district courts shall have full power to liquidate the assets and business of a corporation:

Jurisdiction of court to liquidate assets and business of corporation.

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(a) In an action by a shareholder when it is established:

(1) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

(2) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(3) That the shareholders are deadlocked in voting power, and have failed for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(4) That the corporate assets are being misapplied or wasted.

(b) In an action by a creditor:

(1) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

(2) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve as provided in this act, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the attorney general to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

(e) Upon filing a verified petition and/or application by a *stockholder, director or creditor of any corporation which was dissolved under any corporation laws, which were in effect prior to the effective date of Chapter 300, Laws of Montana 1967, if such dissolved corporation has, or may hereafter be found to have, any property, property*

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rights or other assets, including money, which have not been distributed to creditors and/or shareholders legally entitled to the same.

Proceedings under clause (a), (b), (c), *or (e)* of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally."

Amending clause.

Section 2. Section 15-2295, R.C.M. 1947, is amended to read as follows:

Decree of involuntary dissolution.

"15-2295. **Decree of involuntary dissolution.** In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of such proceedings and all debts, obligations and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts and obligations, all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease, *or in the event the proceedings is under sub-division (e) of Section 15-2290, R.C.M. 1947, the court shall make an order and decree of final distribution and liquidation, discharging the receiver appointed and also discharging all surviving directors of such dissolved corporation from their duties and responsibilities as trustees for the creditors and/or for stockholders of such corporation."*

Does not apply to corporations in dissolution.

Section 3. This act shall not apply to and shall not affect the rights and interests in any dissolved corporation as to which dissolution proceedings were, at the effective date of Chapter 198, Laws of Montana 1967, being continued under the supervision of a court having jurisdiction, except as to any property, property rights or other assets, including money, which might be found after the conclusion of said pending proceedings.

Effective immediately.

Section 4. This law shall be in full force and effective from and after its passage and approval.

Approved: February 28, 1969.

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CHAPTER 175

An Act Amending Section 59-701, R.C.M. 1947, Relating to Fiscal Year and Financial Reports, Requiring State Agencies to Prepare Fiscal Financial Statements and Reconciliations Within Thirty-One Days After the Close of Each Fiscal Year and Providing for Distribution of the Financial Reports as Prescribed by the State Controller.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-701, R.C.M. 1947, is amended to read as follows:

Fiscal year and financial reports.

"59-701. **Fiscal year** *and financial reports.* The fiscal year for state purposes commences on the first (1st) day of July of each year, and ends on the last day of June of each year. The fiscal year for county purposes commences on the first (1st) day of July of each year and ends on the last day of June of each year. At the close of each fiscal year *the fiscal records of* each state officer, department, bureau, commission, institution, university unit, and agency *(hereinafter collectively referred to as state agency)* shall be closed *as of* the end of *the* fiscal year. *Each* state agency shall *prepare such financial statements and reconciliations for the fiscal year as the state controller may prescribe. These financial reports are to be completed and distributed not more than thirty-one (31) days following the close of each fiscal year. The state controller may extend this time limit if a state agency can show necessity therefor. The reports are to be distributed to the state controller and the legislative auditor and any other state agency the state controller may prescribe. It is the intent of this provision that these reports accurately and comprehensively present the financial activities of the reporting state agency so that the reports can be effectively utilized by the executive and legislative branches of state government. Upon consolidation of the reports, the annual financial report by the state controller will be available for other individuals and organizations interested in the financial affairs of the state of Montana."*

Approved: February 28, 1969.

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CHAPTER 176

An Act to Amend Sections 3-2301, 3-2306, 3-2307, 3-2310, Revised Codes of Montana, 1947, Relating to Definition of Egg Dealers' License Fee: Eggs Unfit for Human Food: Regulation of Imported Eggs, and Rules and Regulations for Enforcement of Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3-2301, R.C.M. 1947, is amended to read as follows: Amending clause.

"3-2301. **Egg dealer's license—fee.** Every person engaged in the business of buying, selling or dealing in eggs, except those persons or firms who do not buy and sell *at retail* more than an average of 25 cases of eggs per month for any one year, other than those produced by fowl owned by such persons, shall obtain a license from the commissioner of agriculture for each establishment at which said business is conducted, and shall render to the commissioner of agriculture such reports as may be requested by said commissioner. The fee for such license shall be five dollars ($5.00) per year for dealers buying eggs for sale at retail. The fee for such license shall be *fifty dollars ($50)* per year for dealers buying eggs for resale at wholesale. All licenses shall be posted in a conspicuous place in each place of business. Licenses shall expire March 31st each year after the date of issuance." Egg dealer's license—fee.

Section 2. Section 3-2306, R.C.M. 1947, is amended to read as follows: Amending clause.

"3-2306. **Egg—when defined as unfit for human food.** Eggs hereinafter defined shall be deemed unfit for human food: Egg—when defined as unfit for human food.

(a) "Addled, or "white rot" means an egg that is putrid or rotten.

(b) "Moldy" means an egg which, through improper care, has deteriorated so that mold spores have formed within the egg.

(c) "Blood spot" is a spot of blood adhering to the yolk of an egg.

(d) "Black rot" means an egg which has deteriorated

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to such an extent that the whole interior presents a blackened appearance.

(e) "Blood ring" means an egg in which the germ has developed to such an extent that blood is formed.

(f) "Adherent yolk" means an egg in which the yolk has become fastened to the shell.

(g) "Incubated eggs" shall include eggs which have been subjected to incubation, whether natural or artifical, for more than forty-eight (48) hours, and it shall be unlawful to offer for sale incubated eggs unless branded or stamped with the word "incubated."

(h) "Bloody white" means an egg with a general reddish appearance due to blood mixed through it and which egg may show spots of blood floating in the white.

(i) "Meat spot" means that the egg has a speck of foreign matter adhering to the yolk or floating in the white.

(j) An egg that is smashed or broken so that the contents are leaking.

(k) Eggs which are otherwise unwholesome or adulterated as such term is defined pursuant to the Federal Food, Drug and Cosmetic Act, and rules and regulations promulgated under authority of this act."

Amending clause.

Section 3. Section 3-2307, R.C.M. 1947, is amended to read as follows:

Imported eggs—labeling—used by restaurants, etc.

"3-2307. **Imported eggs — labeling — used by restaurants, etc.** All *candled and graded* eggs imported into the state of Montana must comply with the requirements of this act and must be inspected and passed by licensed Montana egg graders. The case or container *and cartons* in which they are shipped shall have the word "eggs" preceded by the name of the country or state where produced displayed thereon in *legible boldface type* letters *at least three-sixteenths (3/16)* inches high.

All *wholesalers and* retailers of said eggs shall sell them from the container in which he received them *or may transfer said eggs to other containers or cartons having the word "eggs" preceded by the name of the country or state where produced displayed thereon in boldface type letters at least three-sixteenths (3/16) inches high."*

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Section 4. Section 3-2310, R.C.M. 1947, is amended to read as follows: Amending clause.

"3-2310. **Rules and regulations for enforcement of act to be made by commissioner.** It shall be the duty of the commissioner of agriculture to enforce the provisions of this act and to make such rules and regulations as may be necessary for the enforcement of this act, *including the processing, handling and marketing of egg products whether shell, liquid, frozen or dried.*" Rules and regulations for enforcement of act.

Approved: February 28, 1969.

CHAPTER 177

An Act Amending Section 16-912, R.C.M. 1947, to Provide for Salary Increases and an Increase in Mileage Payments to County Commissioners in Counties of the First, Second, Third and Fourth Class; and to Provide for an Annual Salary of Four Thousand Dollars and an Increase in Mileage Payments for County Commissioners in Counties of Other Than the First, Second, Third and Fourth Class.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-912, R.C.M. 1947, enacted as Section 1, Chapter 223, Laws of 1967, is amended to read as follows: Amending clause.

"16-912. **Compensation of members of board.** (1) Each member of the board of county commissioners in counties of the first, second, third and fourth class, shall receive an annual salary as hereinafter set forth: Compensation of board members.

First class	*$8,000*
Second class	*$7,500*
Third class	*$7,300*
Fourth class	*$7,100*

In addition, each member of the board of county commissioners in counties of the first, second, third and fourth class shall receive nine cents ($.09) per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such

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trip is actually made, and while engaged in the performance of his official duties.

(2) Each member of the board of county commissioners in all other counties is entitled to *thirty dollars ($30)* per day for each day's attendance on the sessions of the board *but not to exceed four thousand dollars ($4,000) per year,* and nine cents ($.09) per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such trip is actually made, provided, however, that any county commissioner whose place of residence is fifty (50) miles or more from the county seat, as measured by the usual route of travel, may elect to receive mileage as provided in this section or, in lieu of mileage, a sum of ten dollars ($10) per day for each day's attendance on sessions of the board as expenses, while engaged in the performance of his official duties, and no other compensation must be allowed.

(3) Salaries of the members of the board of county commissioners of a county shall not be changed during the entire term for which such members are elected, regardless of any change in the classification of the county during such term. If a vacancy occurs on the board of county commissioners, the person who is appointed and/or elected to fill the unexpired term shall receive the same salary as the person vacating the office."

Approved: February 28, 1969.

CHAPTER 178

An Act Amending Section 16-1904, R.C.M. 1947, Relating to County Budgets to Eliminate Therefrom Certain Provisions Prohibiting Appropriations in County Budgets from Exceeding by More Than Five Per Cent the Amount Appropriated in the Budget Approved for the Preceding Fiscal Year.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1904, R.C.M. 1947, is amended to read as follows:

Hearings on budget—adoption—fixing tax levies.

"16-1904. (4613.4) **Hearings on budget—adoption—fixing tax levies.** (1) On the Wednesday immediately

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preceding the second Monday in August the county commissioners shall meet at the time and place designated in the notice provided for in section 16-1903, at which time any taxpayer may appear and be heard for or against any part of such budget. Such hearing shall be continued from day to day and shall be concluded and terminated and the budget finally approved and adopted on the second Monday in August and before the fixing of the tax levies by such board.

(2) Upon the conclusion of such hearing the board shall first determine and fix the amount which it is estimated will accrue to each fund during the fiscal year from all sources, except the taxation of property, but in so doing the board shall not include any amount which it is anticipated may be received during the fiscal year from the payment of taxes which became delinquent during any preceding fiscal year, or years. The board shall then determine and fix separately the amount appropriated for and authorized to be expended for each item in the budget and shall specify the fund or funds against which warrants are to be drawn and issued for each item in the budget and shall specify the fund or funds against which warrants are to be drawn and issued for the expenditures so authorized; provided that there shall not be added to the amount to be appropriated and authorized to be expended for any item, or to the total amount appropriated and authorized to be expended from any fund any amount or percentage whatever because of any anticipated loss of revenue by reason of the nonpayment of taxes levied for such fiscal year; and provided further that the amount appropriated and authorized to be expended for any item contained in such budget, *except for salaries which must not exceed by more than ten per centum (10%) the amount appropriated and authorized for such item under the appropriation contained in the budget approved and adopted for the fiscal year immediately preceding and except* for capital outlay, election expenses, expenditures from county poor funds, and payment of emergency warrants and interest thereof, must not exceed by more than five per centum (5%) the amount appropriated and authorized for such item under the appropriation contained in the budget approved and adopted for the fiscal year immediately preceding, and the total amount appropriated and authorized to be expended from any fund, except for capital outlay,

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election expenses and payment of emergency warrants and interest thereon, shall not exceed by more than five per centum (5%) the total amount appropriated and authorized for all purposes, *except for salaries which must not exceed ten per centum (10%) the amount appropriated and authorized from such fund under the appropriation made from such fund in the budget adopted for the fiscal year immediately preceding and* except for capital outlay, election expenses, expenditures from county poor funds, and payment of emergency warrants, from such fund under the appropriation made from such fund in the budget approved and adopted for the fiscal year immediately preceding, provided further that the foregoing limitations shall not apply to appropriations and expenditures authorized to be made from the county poor fund for payment of bonds and emergency warrants and interest thereon; and provided further that the total expenditures authorized to be made from any fund, including reserve added thereto as hereinafter provided, shall not, in any event, exceed the aggregrate of the cash balance in such fund at the close of the fiscal year immediately preceding, the amount of estimated revenues to accrue to such funds, as determined and fixed in the manner herein provided, and the amount which may be raised for such fund by a lawful tax levy during the fiscal year.

(3) The board shall then determine and fix the amount to be raised for each fund by tax levy by adding together the cash balance in the fund at the close of the fiscal year immediately preceding and the amount of the estimated revenues, if any to accrue thereto during the current fiscal year, as before ascertained and determined, and then deducting the total amount so obtained from the total amount of the appropriations and authorized expenditures from the fund as determined and fixed by said board, the amount remaining being the amount necessary to be raised for the fund by tax levy during the current fiscal year; provided that the board may add to the amount so found necessary to be raised for any fund by tax levy during the current fiscal year, an additional amount as a reserve to meet and care for expenditures to be made from such fund during the months of July to November, inclusive, of the next ensuing fiscal year under the annual budget to be thereafter adopted for such next ensuing fiscal year, but the amount which may be so added to any fund, as such reserve for such

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purpose, shall not exceed one-third of the total amount appropriated and authorized to be expended from such fund during the current fiscal year, after deducting from the amount of such appropriations and authorized expenditures the total amount, if any, therein appropriated and authorized to be expended for election expenses and payment of emergency warrants; provided further that the total amount, to be raised by tax levy for any fund, during such current fiscal year, including the amount of such reserve and any amount for payment of election expenses and emergency warrants, must not exceed the total amount which may be raised for such fund by a tax levy which does not exceed the maximum levy permitted by law to be made for such fund.

(4) The budget as finally determined, in addition to setting out separately each item for which any appropriation or expenditure is authorized and the fund out of which the same is to be paid, shall set out the total amount appropriated and authorized to be expended from each fund, the cash balance in the fund at the close of the last preceding fiscal year, the amount, if any, which it is estimated will accrue to the fund from sources other than taxation, the reserve, if any, for the next ensuing fiscal year, and the amount necessary to be raised for each fund by tax levy during the current fiscal year. The board shall then by resolution approve and adopt the budget as so finally determined and enter the same at length and in detail in the official minutes of the board.

(5) On the second Monday in August, and after the approval and adoption of the final budget, the board of county commissioners shall fix the tax levy for each fund at such rate as will raise the amount set out in such budget as the amount necessary to be raised by tax levy for such fund during the current fiscal year, and no more; provided, that the taxable valuation of the county for the then current fiscal year shall be the basis for determining the amount of the tax levy for each fund, and each tax levy shall be at a rate no higher than is required on such basis, without including any amount for anticipated tax delinquency, to produce the amount set out in the budget without including any amount for anticipated tax delinquency, as being the amount to be raised by tax levy, and shall be made in the manner provided by section 84-3802.

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(6) The county clerk and recorder shall, not later than the fifteenth day of September following, forward a full, complete, itemized and detailed copy of the final budget, together with the tax levies made therefor, to the state examiner. If any county clerk and recorder shall fail, refuse, or neglect to forward such copy of the budget to the state examiner within such time, the state examiner shall, before the first day of October immediately following, notify the board of county commissioners of such county that such copy of budget has not been forwarded to him by the county clerk and recorder, and such board of county commissioners must thereupon withhold from said county clerk and recorder his salary for the month of September until such time as such county celrk and recorder shall file with such board a receipt from the state examiner showing the receipt by him of such copy."

Approved: February 28, 1969.

CHAPTER 179

An Act Amending Section 75-3413, R.C.M. 1947, to Provide that Reimbursements to School Districts for Transportation Costs Shall not be Withheld by the Superintendent of Public Instruction if Buses Have Been Inspected as Provided by Law; and Requiring the Highway Patrol to Perform the Annual Inspection of School Buses at Least Thirty Days Prior to the Beginning of the School Term and Reinspection of the Buses, If Necessary, Before the Beginning of the School Term.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-3413, R.C.M. 1947, is amended to read as follows:

Reimbursements to school districts for transportation costs.

"75-3413. **Reimbursements.** (a) Each school district and each county high school meeting the requirements of this act shall be entitled to reimbursement from such moneys as may be appropriated by the legislature for transportation, in an amount not to exceed one-third (1/3) of the schedule provided for transportation, or services rendered in lieu of transportation, semi-annually on presentation to the state superintendent of public instruction, through the office of the county superintendent of schools,

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of certified claims for such reimbursement using for such purpose the forms provided by the state superintendent of public instruction, *and this reimbursement shall not be withheld if the buses have been inspected and approved as provided in section 2 of this act.* A school bus route which travels through several school districts shall have the county and state reimbursement prorated among the school districts which are served by this bus route by the county transportation committee and that the schedules provided in this act for individual transportation and bus transportation or services in lieu thereof, shall be used instead of any schedule which may have been heretofore or may hereafter be fixed and promulgated by the state board of education. In determining the cost of transportation or services in lieu thereof, no amount shall be included except those which have been paid out by a school district or county high school in the regular manner provided for the payment of other financial obligations for the maintenance of their schools.

(b) Each school district maintaining one or more elementary schools, or providing for the transportation of its elementary pupils to attend school in another district, meeting the requirements of this act, shall be entitled to reimbursement from the county common school fund provided by the tax levy authorized and made in accordance with the provisions of section 75-3706, as amended, of one-third (1/3) of the schedule provided for transportation, or services rendered in lieu thereof, semiannually, such reimbursement to be made on duplicates of the certified claims for reimbursement by the state. No apportionment shall be made of such common school fund in either June or December in each year until after such reimbursements therefrom have been made to such school districts.

(c) The limitations on state reimbursement set forth in this act shall not apply to special transportation provided in connection with special education programs in accordance with the provisions of section 75-5003.''

New section.

Section 2. There is a new section in Title 32, Chapter 21, numbered 32-21-155.1, which reads as follows:

Annual inspection of buses.

32-21-155.1 (1) The Montana highway patrol shall perform the annual inspection of school buses at least thirty (30) days prior to the beginning of the school term and reinspect the buses, if necessary, before the beginning of the school term.

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(2) The Montana highway patrol's inspection shall determine if the school buses meet the minimum standards for school buses as adopted by the board of education.

Approved: February 28, 1969.

CHAPTER 180

An Act to Provide that a Dealer Who Applies for Registration or Re-Registration of a Motor Vehicle is Considered a Purchaser; Amending Section 84-406, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 2, Chapter 232, Section 3, Chapter 290, Section 3, Chapter 296, Laws of 1967, compiled as Section 84-406, R.C.M. 1947, is amended to read as follows:

Time of assessment—motor vehicles—mobile homes—livestock.

"84-406. **Time of assessment—motor vehicles—mobile homes—livestock.** (1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at 12 midnight of the first Monday of March next preceding. He must also ascertain and assess all mobile homes arriving in his county after 12 midnight of the first Monday of March next preceding. The procedure provided by this section shall not apply to

(a) Motor vehicles which are required by sub-division (2) hereof to be assessed as of the first day of January; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid.

(b) Livestock being fed in feeding pens or enclosures which may by subdivision (3) of this section be assessed on an average inventory basis. Credits must be assessed as provided in section 84-101, subdivision 6.

(c) Property defined in section 53-642 as 'special mobile equipment' shall be subject to assessment of personal property taxes either on the date that application is made for a special mobile equipment plate, if that date falls between

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the first day of January and the first Monday of March, or on the first Monday of March.

(d) Mobile homes held by a distributor or dealer of mobile homes as a part of his stock in trade.

(2) The assessor must ascertain and assess all motor vehicles, except mobile homes, in his county subject to taxation as of January 1 in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at 12 midnight of the first day of January in each year. Provided that such tax shall not be assessed against motor vehicles which constitute inventory of motor vehicle dealers as of January 1, but said vehicles, and all other motor vehicles brought into the state subsequent to January 1, as motor vehicle dealer's inventory, shall be assessed to their respective purchasers as of the dates said vehicles are registered by said purchasers, *and purchasers means and includes dealers who apply for registration or re-registration of motor* vehicles, except as otherwise provided by section 32-3315. Goods, wares and merchandise of motor vehicle dealers, other than new motor vehicles and new mobile homes, shall continue to be assessed at full and true value as of the first Monday of March.

Except that this paragraph shall not apply to an applicant for registration or re-registration of a mobile home, nothing herein contained shall relieve the applicant for registration or re-registration of any other motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or re-registration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

(3) The assessed value of livestock being fed in feeding pens or enclosures on the first Monday in March may be computed by adding the value of livestock more than six (6) months of age being fed on the last day of each month since the last assessment date and dividing the sum by twelve (12)."

Section 2. This act shall be effective on its passage and approval. **Effective immediately.**

Approved: February 28, 1969.

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CHAPTER 181

An Act to Establish a State Motor Vehicle Pool and for the Storage and Maintenance of State-Owned Vehicles.

Be it enacted by the Legislative Assembly of the State of Montana:

Creation of state motor vehicle pool.

Section 1. There is hereby created a state motor vehicle pool to be operated and maintained by the Montana state highway commission.

Section 2. All motor vehicles owned or leased by the state of Montana or its boards, commissions or agencies operated out of any areas or locations where five (5) or more state vehicles or three (3) or more state agencies are located, shall be stored, maintained and serviced by the Montana state highway commission. All actual costs for maintenance, service and storage to these state vehicles shall be paid to the Montana state highway commission by the individual state agencies involved.

Rules and regulations.

Section 3. Any and all rules and regulations promulgated for the operation and maintenance of a state motor vehicle pool shall be the same or as near feasible to rules and regulations followed by the Montana state highway commission in the use of their own motor vehicles.

Effective date.

Section 4. This bill to become effective July 1, 1969.

Approved: **February 28, 1969.**

CHAPTER 182

An Act to Provide that Motor Vehicle Insurance Must Provide that Reimbursement for a Total Loss of the Vehicle be Based on the Actual Replacement Value of the Vehicle and Not on a Book Value.

Be it enacted by the Legislative Assembly of the State of Montana:

Motor vehicle insurance—total loss of vehicle based upon replacement value.

Section 1. Each automobile insurance policy issued to residents of this state which provides that reimbursement for total loss of a motor vehicle shall be based on a "book" value rather than on the actual replacement value is void as to such provision and reimbursement shall be made for actual replacement value.

Approved: February 28, 1969.

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CHAPTER 183

An Act Providing Home Instruction and Transportation for Crippled Children Outside of the State of Montana: Providing for Payment from School Districts to Out-of-State Agencies in the Case of Out-of-State Attendance of Handicapped Children; Amending Sections 75-1406 and 75-5003, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1406, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-1406. **Crippled children—home instruction—transportation—tax levy.** The board of trustees of any school district, at its discretion, is authorized to assist the education of crippled children of five (5) to sixteen (16) years of age, who, because of physical handicap cannot regularly attend public school by furnishing home tutorial service for such crippled children or by furnishing transportation to and from adequate school facilities locally or elsewhere within, *or outside of* the state, whichever best meets the child's needs as determined by the said board of trustees together with the superintendent of schools based upon recommendations of the division of service for crippled children of the Montana state board of health, and if in any school district there is a need of such special provision for crippled children located therein, then the board of county commissioners may levy a tax not to exceed one (1) mill on the dollar on all taxable property, within the district, in addition to all other levies, for school purposes, for the support and maintenance of such crippled children's education, provided that the board of school trustees of any such district requiring such levy must call an election in the manner prescribed by law for such extra levies for the purpose of obtaining the approval of the district to the making of such additional levy and provided further that such election must be held before the 1st day of July." Crippled children—home instruction—transportation—tax levy.

Section 2. Section 75-5003, R.C.M. 1947, is amended to read as follows: Amending clause.

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Local boards of trustees—powers—determination of children requiring special education and the type of education responsibility of state superintendent—reimbursement by state—computation.

"75-5003. **Local boards of trustees—powers—determination of children requiring special education and the type of education responsibility of state superintendent—reimbursement by state—computation.** (1) The board of trustees responsible for the operation of any school district may establish special education classes when it appears there are not less than four (4) educable mentally retarded or not less than four (4) physically handicapped children in the district.

(2) The board of trustees, responsible for the operation of any public school when it appears that there are not less than ten (10) educable mentally retarded or not less than ten (10) physically handicapped children in the district must maintain at least one special class for educable mentally retarded children or at least one special class for physically handicapped children, (and may provide classes for the trainable mentally retarded children).

(3) In lieu of providing such special classes the board of trustees may arrange to use the services of such approved mentally retarded or physically handicapped children's classes as may exist and may provide transportation services from home to school and return for all handicapped children enrolled in a state-approved special education program of such ages as it deems wise; provided, that the local board has the right to exclude persons of severe delinquent behavior. The determination of the children requiring special education and the type of special education needed by these handicapped children shall not be the responsibility of local boards of trustees but shall be the responsibility of the state superintendent of public instruction in cooperation with appropriate medical, psychiatric and psychological advice. Two (2) or more districts may combine to provide such educational facilities.

(4) Reimbursements on the part of the state for in-school classes of seven (7) or more students approved by the state superintendent of public instruction shall be computed on the basis of forty-five (45) in average number belonging. For a class of less than seven (7) students the ANB shall be computed on the basis of the number of students at a rate not to exceed six (6) ANB per student, provided that no class of less than four (4) students shall be approved. For other special education programs approved by the state superintendent of public

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instruction, including speech and hearing therapy, home or hospital tutoring, school-to-home telephone communication, or other individual programs, the ANB shall be computed according to a schedule prepared by the state superintendent of public instruction on the basis of the time required and the degree of special education provided; in such cases the ANB shall not exceed six (6) for each exceptional child enrolled in such program. Transportation reimbursements shall be made on a schedule arrived at by the state superintendent of public instruction, and such expenditures shall be added to the transportation budget of the district; *provided, that said reimbursement shall not exceed the expense of transportation to similar facilities within the state of Montana.* The state shall reimburse two-thirds (2/3) of such approved transportation and the county shall reimburse the remainder of such approved transportation according to said schedule.

(5) Whenever a new special education class or program, to be offered for the first time in the ensuing year, has been approved by the state superintendent of public instruction prior to the adoption of the preliminary budget, the board of trustees may include in the ANB for the budget a number anticipated to be the ANB eligible for special education computation in the ensuing year, subject to the approval of the state superintendent of public instruction.

(6) Any child who is mentally retarded, or physically handicapped, or both, who is enrolled in a state-approved special education program which is maintained by an elementary school district other than the district in which such child resides, shall be included in the computation of average number belonging to the district maintaining the special education program, according to the provisions herein. The district in which such child resides shall pay to the district where such child attends an amount of tuition based on two (2) times the tuition rates established in section 75-1630, and such payment shall be made in the manner prescribed by section 75-1630. *Where the child is attending an out-of-state program, the school district may transfer tuition payments to the agency providing the special training, notwithstanding section 75-1630.*"

(7) Any such child who is enrolled in a state-approved

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high school special education program which is maintained by a high school located in a county other than the county in which such child resides, shall be included in the computation of the average number belonging to the high school maintaining the special education program, according to the provisions herein. The county in which such child resides shall pay to the high school where such child attends an amount of tuition based on two (2) times the tuition rates established in section 75-4230, and such payment shall be made in the manner prescribed by section 75-4230. *Where the child is attending an out-of-state program, the school district may transfer tuition payments to the agency providing the special training, notwithstanding section 75-4230.*

(8) When children are sent to an institution supported solely by funds of the state of Montana the home district or county will not be required to pay tuition for such child."

Approved: March 1, 1969.

CHAPTER 184

An Act to Amend Chapter 41, Title 69, of the R.C.M. 1947, as Amended, by Adding Thereto a New Section to Be Numbered 69-4110.1; Establishing the State Department of Health as the Sole and Official State Agency to Administer the State Program for Comprehensive Health Planning, and Authorizing It to Prepare a Plan for Comprehensive State Health Planning; Authorizing Said Department to Cooperate With All Other Persons and Entities That Have an Interest in Public Health Problems and Needs; and Designating and Authorizing Said Department as the Sole and Official Agency of This State to Accept, Receive, Expend and Administer Funds Now Available or Which May Become Available to the State of Montana for the Preparation and Administration and Supervision of the Preparation and Administration of the Comprehensive State Health Plan; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Chapter 41, Title 69, of the R.C.M. 1947,

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as amended, be, and the same is, hereby amended by adding thereto a new section to be numbered 69-4110.1, to read as follows:

"69-4110.1 **Comprehensive state health planning powers and duties of department.** The state department of health is hereby established as the sole and official state agency to administer the state program for comprehensive health planning and is hereby authorized to prepare a plan for comprehensive state health planning. The department is authorized to confer and cooperate with any and all other persons, organizations, or governmental agencies that have an interest in public health problems and needs. The state department of health, while acting in this capacity as the sole and official state agency to administer, and to supervise the administration of, the official comprehensive state health plan, is designated and authorized as the sole and official state agency to accept, receive, expend and administer any and all funds which are now available, or which may be donated, granted, bequested or appropriated to it, for the preparation and administration, and the supervision of the preparation and administration of the comprehensive state health plan."

Comprehensive state health planning powers and duties of department.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved: March 3, 1969.

CHAPTER 185

An Act Providing That a Weed Control District Be Formed in Every County; Amending Section 16-1713, R.C.M. 1947, by Eliminating the Language Referring to City and Town District, and Repealing Sections 16-1709, 16-1710, 16-1711, 16-1712 and 16-1723, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section in Title 16, chapter 17, R.C.M. 1947, numbered 16-1709.1, which reads as follows:

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Weed control and weed seed extermination districts.

"16-1709.1. A weed control and weed seed extermination district shall be formed in every county of this state and shall include all the land within the boundaries of the county."

Amending clause.

Section 2. Section 16-1713, R.C.M. 1947, is amended to read as follows:

Weed control and weed seed extermination supervisors—appointment—term—compensation.

"16-1713. **Appointment of weed control and weed seed extermination supervisors—term of office—compensation.** *The board of county commissioners of each county shall appoint a county weed board consisting of three (3) or five (5) members. If a five (5) member board, three (3) members shall be rural agricultural landowners within the county, two (2) from municipalities within the county. If a three (3) member board, two (2) members shall be rural agricultural landowners within the county and one (1) member shall be from a municipality within the county. They shall be appointed for a period of one (1), two (2), and three (3) years respectively for a three (3) member board or should a five (5) member board be selected, they shall be appointed for one (1) and two (2) year terms respectively dating from the preceding July, and thereafter an appointment or reappointment shall be made annually by the board of county commissioners.* Said supervisors shall be public officers, and they shall organize by choosing a chairman and a secretary. The secretary may or may not be a member of the board. All such supervisors shall be entitled to mileage, and per diem of ten dollars ($10) per day. The supervisors may employ suitable and competent persons as assistants and employees as may be necessary and provide for their compensation. It shall be the duties of said supervisors to supervise within their county the control program."

Repealing clause.

Section 3. Sections 16-1709, 16-1710, 16-1711, 16-1712, and 16-1723, R.C.M. 1947, are repealed.

Approved: March 3, 1969.

CHAPTER 186

An Act to Amend Section 26-119, R.C.M. 1947, Permitting the State Fish and Game Commission to Contract for the Construction of Projects Costing Less Than Five Thou-

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sand Dollars ($5,000) But More Than One Thousand Dollars ($1,000) and to Obtain Plans and Specifications, Give Notice, Receive Bids and Accept Performance Bonds, and Further Permitting the Commission to Contract for the Construction of Projects Costing Less Than One Thousand Dollars ($1,000) Without Providing for Plans or Specifications, Notice, Competitive Bidding or Performance Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-119, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"26-119. It shall be the duty of the state fish and game commission of the state of Montana to procure suitable plans and specifications for any *construction project under its* authority or under authority of the state legislature, when the estimated value or cost of the same shall be more than one thousand dollars *($1,000) but less than five thousand dollars ($5,000)* and said commission shall cause said *project to be constructed, but* in accordance with such plans and specifications, by contract, said contract to be let after publishing *a* notice stating the time and place of letting the same, and where plans and specifications may be seen. Said notice shall be published not less than once a week for two *(2)* weeks prior to the time of letting such contract, in some newspaper of general circulation in the county in which said *project* is to be *constructed,* and elsewhere if deemed best by said commission, and said commission, if not satisfied with the bids received, or for any other reason, may reject any and all bids received and readvertise as often as may be necessary. *Only one bid need be received and the* contract shall be let to the lowest responsible bidder. Any person to whom a contract may be given shall be required to give a good and sufficient bond, conditioned for the faithful performance and completion of such contract, the same to be approved by the commission, or some member of the commission. *The commission may contract for construction projects estimated to cost one thousand dollars ($1,000) or less without providing for plans or specifications, notice, competitive bidding or performance bonds."* **Authority of fish and game commission to contract for construction projects.**

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Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved: March 3, 1969.

CHAPTER 187

An Act to Amend Section 32-3304, R.C.M. 1947, as Amended by Chapter 197, Laws of 1965, by Striking Therefrom Reference to Equipment Used in Hauling Ready-Mix Concrete; and Providing for a New Section to Be Numbered 32-3304.1, Providing for the Annual Payment and Collection on Trucks, Truck-Tractors, Trailers and Semitrailers Used Exclusively in Hauling Ready-Mix Concrete of a Fee Equal to Fifty-Five Per Cent (55%) of the Fees Provided in Schedules I and II Contained in Sections 32-3301 and 32-3302.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-3304, R.C.M. 1947, is amended to read as follows:

Additional fees—pole trailers, low-boys, and livestock.

"32-3304. **Additional fees—pole trailers, low-boys,** *and* **livestock.** There shall be paid and collected annually a fee equal to seventy-five per cent (75%) of the fees provided in Schedule I and Schedule II above on pole trailers; trucks, truck-tractors, trailers and semitrailers used exclusively in hauling livestock *and* logs; truck-tractors and low-boy trailers used exclusively in hauling equipment; and truck-tractors drawing or hauling said low-boy trailers."

Section 2. There is hereby enacted a new code section, to be designated section 32-3304.1 of the Revised Codes of Montana, 1947, reading as follows:

Fees.

"32-3304.1. There shall be paid and collected annually a fee equal to fifty-five per cent (55%) of the fees provided in Schedule I and Schedule II above on trucks, truck-tractors, trailers and semitrailers used exclusively in hauling ready-mix concrete."

Approved: March 3, 1969.

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CHAPTER 188

An Act to Amend Section 32-1122, R.C.M. 1947, to Provide That a Motor Vehicle Which Has Been Loaded at a Location where No Scale Exists Can Be Moved to the First Open State Scale and There Adjust or Reduce the Load on Such Vehicle Without Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-1122, R.C.M. 1947, is amended to read as follows: Amending clause.

"32-1122. **Regulation of size and weight of vehicles on public highways.** It shall be unlawful and constitute a misdemeanor for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any public highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this act, or any vehicle or vehicles which are not so constructed or equipped as required in this act or the rules and regulations of the state highway commission, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter said limitations or substitute any other limitations or requirements except as express authority may be granted in this act. *Provided, however, that the operator of a vehicle which has been loaded at a location where no scale exists can move said vehicle over the public highways to the first open state scale without incurring the penalties provided by section 32-1125, R.C.M. 1947. The origin of movement must be at such distance from a scale that the operator could not have been reasonably expected to check the weight of said vehicle during the loading thereof and the operator must exhibit shipping papers or other written evidence of the location at which the vehicle was loaded. The vehicle must proceed toward its destination over the most direct highway route and stop at the first open state scale, permanent or portable. The load must be adjusted or reduced to conform to existing limitations upon size and weight of vehicles before said vehicle shall be moved from the point of weighing.*" Regulation of size and weight of vehicles on public highways.

Approved: March 3, 1969.

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CHAPTER 189

An Act Providing That Minors May Give Legal Consent to Hospitals, Public Clinics or Physicians for Diagnosis and Treatment for Pregnancy or Venereal Disease; That Such Consent Shall Be Binding on the Minor and Not Subject to Later Disaffirmance by Reason of Such Minority; that the Consent of No Other Person Shall Be Necessary in Order to Authorize Care or Services Provided to Such Minor or Minor's Child; That the Physician or Physicians May, in Their Sole Discretion, Give or Withhold Information Concerning Facts That Minor Patients Are Pregnant or Have Venereal Disease; That No Information Shall Be Given by Hospitals, Public Clinics or Physicians to Any Spouse, Parent, Custodian or Guardian of Any Minor Patient in Cases Where Said Minor Patient Is Found Not to Be Pregnant or Not Afflicted With Venereal Disease; That Act Applies to Minors Who Profess to Be in Need of Medical Services Whether Their Suspicions of Pregnancy or Venereal Disease Are Subsequently Medically Sustantiated; Providing That Any Consent Given by a Minor Under This Act Following Delivery or Other Termination of Pregnancy Shall Not Include Consent to Any Surgery Not Directly Connected With the Pregnancy; Providing That Hospitals, Public Clinics and Physicians Who Provide Care or Services Under the Terms of This Act Shall Incur No Civil or Criminal Liability, Except That Such Immunity Shall Not Apply to Negligent Acts or Omissions.

Be it enacted by the Legislative Assembly of the State of Montana:

Consent to medical treatment or services by minor—when.

Section 1. The consent to the provision of medical or surgical care or services by a hospital, public clinic, or the performance of medical or surgical care or services by a physician, licensed to practice medicine in this state, when executed by a minor who is, or professes to be married, or by a female minor who is, or professes to be pregnant, or by a minor who is, or professes to be afflicted with a venereal disease, shall be valid and binding as if the said minor had achieved his or her majority as the case may be; that is, a minor who is, or professes to be married, or a female minor who is, or professes to be pregnant, or a minor who is, or professes to be afflicted with a venereal disease, shall be deemed to have, and shall have the same

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legal capacity to act, and the same legal obligations with regard to the giving of such consent to such hospital or clinical care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine in this state, as a person of full legal age and capacity, the infancy of said minor and any contrary provisions of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority; and the consent of no other person or persons (including, but not limited to a spouse, parent, custodian, or guardian) shall be necessary in order to authorize such hospital or clinical care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine in this state to such a minor or minor's child.

Informing of spouse, parent, custodian or guardian of minor.

Section 2. A treating physician or if more than one, any one of them, may, but shall not be obligated to, inform the spouse, parent, custodian or guardian of any such minor in the circumstances as enumerated in Section 1 of this act, as to the treatment given or needed, and such information may be given to, or withheld from, the spouse, parent, custodian or guardian without the consent of the minor patient and even over the express refusal of the minor patient providing such information; the providing or withholding of such information to rest in the sole discretion of the physician. In the event that the said minor is found not to be pregnant or not afflicted with venereal disease, then no information with respect to any appointment, examination, test or other medical procedure shall be given to the spouse, parent, custodian, or guardian of said minor.

Application to minors alleged to be in need of medical treatment.

Section 3. The provisions of this act shall also apply to minors who profess to be in need of hospital or clinical care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine in this state, whether because of suspected pregnancy or venereal disease, regardless of whether such professed suspicions of pregnancy or veneral disease are, or are not subsequently substantiated on a medical basis.

Consent invalid—when.

Section 4. Any consent given pursuant to the provisions of this act by a minor shall not be deemed to be valid if, following a delivery or other termination of a pregnancy,

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it is determined that surgery not directly connected with the pregnancy is required or shall be requested.

Immunity of physicians and hospitals.

Section 5. In any case arising under the provisions of this act the hospital, public clinic, or physician, licensed to practice medicine in this state, who provides the care or services or who performs medical or surgical care or services shall incur no civil or criminal liability by reason of having provided the care or services, but such immunity shall not apply to any negligent acts or omissions.

Approved: March 3, 1969.

CHAPTER 190

An Act Amending the Montana Motor Carrier Act Exempting the Transportation of Newspapers, Newspaper Supplements, Periodicals, or Magazines From the Provisions of This Act; Exempting From the Provisions of the Act Tow Trucks and Wreckers Designed and Exclusively Used in Towing Abandoned, Wrecked or Disabled Vehicles or While Such Vehicles Are Rendering Assistance to Abandoned, Wrecked or Disabled Vehicles; Exempting Ambulances; Amending Section 8-101, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 8-101, R.C.M. 1947, is amended to read as follows:

8-101. **Definition of terms.** Unless the language or context clearly indicates that different meanings are intended, the following words, terms and phrases shall, for the purposes of this act, be given the meanings hereinafter subjoined to them.

"Board."

(a) The word 'board' means the board of railroad commissioners of the state of Montana.

"Corporation."

(b) The term 'corporation' means a corporation, company, association or joint stock association.

"Person."

(c) The term 'person' means an individual, firm or copartnership.

"Certificate."

(d) The word 'certificate' means the certificate of

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public convenience and necessity authorized to be issued under the provisions of this act.

"Public highway." (e) The term 'public highway' means every public street, road, highway, or way in this state.

"Motor vehicle." (f) The term 'motor vehicle' shall include all vehicles or machines propelled by any power other than muscular used upon the public highways for the transportation of persons and/or property.

"Between fixed termini over a regular route." (g) The words 'between fixed termini or over a regular route' when used in this act, mean the termini or route between or over which any motor carrier usually or ordinarily operates any motor vehicles, even though there may be periodical or irregular departures from said termini or route. Whether or not a motor vehicle is operated by a motor carrier between fixed termini, or over a regular route, or otherwise, within the meaning of this act, shall be a question of fact to be determined by the board.

"Motor carrier." (h) The term 'motor carrier,' when used in this act, means every person or corporation, their lessees, trustees, or receivers appointed by any court whatsoever, operating motor vehicles upon any public highway in the state of Montana for the transportation of persons and/or property for hire, on a commercial basis either as a common carrier or under private contract, agreement, charter, or undertaking; provided that nothing in this act shall be construed as affecting motor vehicles used in carrying property consisting of ordinary livestock or agricultural commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation, or, the operation of school buses which are used in conveying school children to and from district or other schools, or the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by any person, firm or corporation engaged exclusively in the construction or maintenance of highways, or engaged exclusively in logging or mining operations, in so far as the use of employees, supplies and materials in construction and production is concerned, or the transportation of property by motor vehicle within any city, town, or village with a population, according to the latest United States census, of less than five hundred persons, or within

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the commercial areas thereof as determined by the board, *or the transportation of newspapers, newspaper supplements, periodicals or magazines, or those tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked or disabled vehicles or while such tow trucks and wreckers are rendering assistance to abandoned, wrecked or disabled vehicles, or ambulances.*

"For hire." (i) The words 'for hire' mean for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering or buy-and-sell arrangements whereby a remuneration is obtained or derived for transportation service. An accommodative transportation movement by a person not in the transportation business shall not be construed as a service for hire, even though the persons owning the property transported or persons transported share in the cost or pay for the movement. Nothing in this act shall be construed so as to prevent bona fide leases, brokerage agreements or buy-and-sell agreements.

"Compensation." (j) The word 'compensation,' as used in this act, shall mean the charge imposed upon motor carriers in consideration of the use of the highways in this state by such motor carriers, as provided in section 8-116.

"Railroad." (k) The word 'railroad'' means the movement of cars on rails, regardless of the motive power used therefor.''

Approved: March 3, 1969.

CHAPTER 191

An Act Amending Section 40-3512 to Prevent Discrimination With Regards to Race, Color, or National Origin in Property, Casualty and Surety Insurances: R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. Section 40-3512 is amended to read as follows:

Unfair discrimination, rebates prohibited—property, casualty, surety insurances. "40-3512. **Unfair discrimination, rebates prohibited—property, casualty, surety insurances.** (1) No property, casualty or surety insurer or any employee or representative thereof, and no agent, or solicitor shall pay, allow,

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or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in the policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) No insured named in a policy, nor any employee of such insured shall knowingly receive or accept directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

(3) *No such insurer shall make or permit any unfair discrimination either between insureds or property having like insuring or risk characteristics, or between insureds because of race, color, creed, or national origin, in the premium or rates charged for insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance.*

(4) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, or solicitors, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, lawful dividends, savings or unabsorbed premium deposits.''

Approved: March 3, 1969.

CHAPTER 192

An Act Amending Section 93-1906, R.C.M. 1947, to Change the Salaries of Court Reporters From Eight Thousand Eight Hundred Dollars to Nine Thousand Two Hundred Dollars Per Year.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-1906, R.C.M. 1947, is amended to read as follows: Amending clause.

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Salary and expenses of reporter—apportionment.

"93-1906. **Salary and expenses of reporter—apportionment.** Every reporter appointed under the provisions of this chapter receives an annual salary of *nine thousand two hundred dollars ($9,200)* and no other compensation except as provided in section 93-1904, provided, however, that all transcripts and bills of exceptions required by the county shall be furnished without cost, payable in monthly installments out of the general funds of the counties comprising the district for which he is appointed, according and in proportion to the number of civil and criminal actions entered and commenced in the district courts of such counties respectively in the preceding year; and it shall be the duty of the judge of such district, on the first day of January of each year, or as soon thereafter as may be, to apportion the amount of such salary to be paid by each county in his district on the basis aforesaid. The reporter is allowed, in addition to the salary and fees above provided, in judicial districts comprising more than one (1) county, his actual and necessary expenses of transportation and living when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto, said expenses to be apportioned and payable in the same way as the salary."

Approved: March 3, 1969.

CHAPTER 193

An Act to Include in the Preference for Employment Law Those Veterans Who Have Served on Active Military Duty After January 31, 1955, for More Than One Hundred Eighty Days or Who Were Discharged Because of Service Connected Disability; Including, But Not Limited to, Those Veterans Who Have Served Because of the Vietnam Conflict; to Change the Dates of World War II for Purposes of Veterans' Preference; to Change the Examination Preference Basis From Percentage to Points; Amending Section 77-501, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 77-501, R.C.M. 1947, is amended to read as follows:

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"77-501. **Purpose of act—definitions—preference.** The purpose of this act is to provide for preference of veterans, their unremarried widows, and dependents, and certain disabled civilians in appointment and employment in every public department and upon all public works of the state of Montana and of any county and city thereof. Purpose of act.

(1) **Definitions.**

(a) The term "veterans" as herein used, means men and women who served in the armed forces of the United States, and who have been separated from such service upon conditions other than dishonorable, in time of war or declared national emergency as follows: The Civil War; the Spanish American War; the Philippine Insurrection; World War I, between April 6, 1917, and November 11, 1918, both dates inclusive; World War II, which term means such service between September 16, 1940, and *December 31, 1946,* both dates inclusive; the Korean War, military expedition, or police action, between June 26, 1950, and January 31, 1955, both dates inclusive*; and those honorably discharged veterans who have served on active military duty for more than one hundred eighty (180) days after January 31, 1955, or who were discharged or released because of a service connected disability, including, but not limited to, those veterans serving because of the Vietnam Conflict.* "Veterans."

(b) The term "widows" as herein used means unremarried widows of veterans. "Widows."

(2) **Preference to appointment and employment.** Preference to appointment and employment.

In every public department and upon all public works of the state of Montana and of any county or city thereof, the following shall be preferred for appointment and employment: veterans, their wives and widows, and the other dependents of disabled veterans; disabled civilians recommended by the state rehabilitation bureau;

Provided that age, loss of limb, or other physical impairment which does not in fact incapacitate, shall not be deemed to disqualify any disabled veteran or any such disabled civilian provided he or she possesses the business capacity, competency, and education to discharge the duties of the position involved;

Provided further that those of the above described vet-

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erans who have disabilities admitted by the veterans administration of the United States to have been incurred in service in any of said wars or military expeditions or police action, where such disabilities do not in fact incapacitate, shall be given preference in employment over other veterans.

Credit for examinations.

(3) **Credit for examinations.**

When written or oral examinations are required for employment as above described, disabled veterans and their wives, their unremarried widows, and other dependents of disabled veterans, shall have added to their examination ratings a credit of *ten points,* and all other veterans, their wives, unremarried widows, and dependents shall have added to their examination ratings a credit of *five points:* provided that the fact that an applicant has claimed a veterans' credit shall not be made known to the examiners until ratings of all applicants have been recorded; after which such credits shall be added to the examination rating and the records shall show the examination rating and the veteran's credit; provided further that the benefits of this subsection are in addition to and not in derogation of the preference in appointment and/or employment given by subsection (2) hereof.

Eligibility.

(4) **Eligibility.**

That none of the benefits of this act shall accrue to any person who refused to serve on active duty in the military service to which attached, or to take up arms in the defense of the United States; provided, however, that no person, not a citizen of the United States, shall be employed by any state, city or county officer in any capacity if competent American labor is available; and provided, further, that no person who has not been a resident of Montana for at least one (1) year immediately preceding an appointment shall be entitled to such preference; provided, further, that for city or county employment, no preference will be granted unless applicant under this act is also a resident of the city or town or county in which employment is sought.

Enforcement of preference.

(5) **Enforcement of preference.**

That any person entitled to preference in this section who has applied for any appointment or employment upon

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public works of the state of Montana or of any county and city thereof, or in any public department of said state and who has been denied said employment or appointment and feels that the spirit of this act has been violated and that he is in fact qualified physically, mentally and possesses business capacity, competency and education to discharge the duties of the position applied for, shall have the right to petition by verified petition the district court of the state of Montana in the county in which the work is to be performed, setting forth the facts of his application, qualifications, competency and his honorable discharge or other qualifications warranting him to preference under this act, and upon filing of such petition any judge in said court shall forthwith issue an order to show cause to the appointing authority directing said appointing authority to appear in said court at a specified time and place, not less than five (5) nor more than ten (10) days after the filing of said verified petition, to show cause, if any he has, why said veteran or person entitled to preference should not be employed by him and that said district court shall have jurisdiction upon the proper showings to issue its order directing and ordering said appointing authority to comply with this law in giving the preference herein provided."

Severability clause.

Section 2. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 3, 1969.

CHAPTER 194

An Act to Allow Contractors Under Contracts With the State of Montana, or Any Department, Agency or Political Subdivision Thereof, to Deposit Certain Governmental Obligations With the Treasurer of the State of Montana in Substitution for that Portion of the Payments Otherwise Due to Such Contractors Under State Contracts Which are Retained by the State of Montana,

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or Any Department, Agency or Political Subdivision Thereof, Pursuant to the Terms of Such State Contracts.

Be it enacted by the Legislative Assembly of the State of Montana:

Contractors under contracts with state may deposit bonds with state in substitution for payments due as retainage.

Section 1. The contractor under any contract heretofore or hereafter made or awarded by the state of Montana, or any department, agency or political subdivision thereof, including any contract for the construction, improvement, maintenance or repair of any road or highway or the appurtenances thereto, may, from time to time, withdraw the whole or any portion of the sums otherwise due to the contractor under such contract which are retained by the state of Montana, or any department, agency or political subdivision thereof, pursuant to the terms of such contract provided the contractor shall deposit with the treasurer of the state of Montana (1) United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness or United States treasury bills; or (2) bonds or notes of the state of Montana; or (3) bonds of any political subdivision of the state of Montana, of a market value not exceeding par, at the time of deposit, but at least equal in value to the amount so withdrawn from payments retained under such contract.

Power of state treasurer.

Section 2. The treasurer of the state of Montana shall have the power to enter into a contract or agreement with any national bank, state bank, trust company or safe deposit company located in the state of Montana, designated by the contractor, after notice to the owner and surety, to provide for the custodial care and servicing of any obligations deposited with him pursuant to this act. Such services shall include the safekeeping of said obligations and the rendering of all services required to effectuate the purposes of this act.

Collection and payment of interest.

Section 3. The treasurer of the state of Montana or any national bank, state bank, trust company or safe deposit company located in the state of Montana, designated by the contractor to serve as custodian for the obligations pursuant to section 2 hereof, shall collect all interest or income when due on the obligations so deposited and shall pay the same, when and as collected, to the contractor who deposited the obligation. If deposited in the form of coupon bonds, the treasurer of the state of Montana shall deliver each such coupon as it matures to the contractor.

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Amount deducted by state to be deducted first from retained payments.

Section 4. Any amount deducted by the state of Montana, or by any department, agency or political subdivision thereof, pursuant to the terms of a contract, from the retained payments otherwise due to the contractor thereunder, shall be deducted first from that portion of the retained payments for which no obligation has been substituted, then from the proceeds of any deposited obligation. In the latter case, the contractor shall be entitled to receive the interest, coupons or income only from those obligations which remain on deposit after such amount has been deducted.

Approved: March 3, 1969.

CHAPTER 195

An Act to Amend Section 28-119, R.C.M. 1947, to Provide for the Treatment, Disposal, Removal or Reduction of Fire Hazards Created by Sawmilling Waste; and to Provide for Disposal Other than Burning.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 28-119, R.C.M. 1947, is amended to read as follows:

Sawdust piles—restrictions.

"28-119. **Sawdust piles—restrictions.** *Prior to each fire season, all persons, firms or corporations, creating or responsible for mill waste within the forest areas will treat, dispose of, remove or reduce the hazards created so that such accumulation of sawmilling waste does not constitute a fire hazard.*

No sawmill located within or contiguous to forest lands shall accumulate in one pile, sawdust in excess of an amount resulting from the sawing of five hundred thousand (500,000) feet log scale of sawlogs, provided, however, that a larger sawdust pile may be accumulated when there is no reasonable danger of fire therefrom and a permit for the additional accumulation is granted by the state forester. *In the event that burning is the disposal method elected,* each sawdust pile so accumulated shall be prepared for burning by cribbing the base of each pile with slabs and burned in accordance with regulations issued by the board of forestry."

Approved: March 3, 1969.

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CHAPTER 196

An Act Amending Section 60-125, R.C.M. 1947, Relating to the Oil and Gas Conservation Commission of the State of Montana; Increasing the Compensation of Commission Members from Fifteen Dollars Per Day to Twenty Dollars Per Day.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 60-125, R.C.M. 1947, is amended to read as follows:

Oil and gas conservation commission.

"60-125. **Oil and gas conservation commission—members—term—oath—seal—employees.** A. There is hereby created the oil and gas conservation commission of the state of Montana.

Members—term.

B. The oil and gas conservation commission of the state of Montana shall be composed of five (5) persons to be appointed by the governor, with the concurrence of the state senate. That of the commissioners, two (2) and not more that two (2) will be appointed for a period of two (2) years, and they shall be from industry. One (1) nonindustry man shall be appointed for three (3) years and one for four (4) years and one (1) for five (5) years. At the expiration of the term of the two (2) industry men, the appointment of their successor shall be for four (4) and five (5) years respectively, after which all vacancies shall be filed for five (5) year terms. All appointed members of the commission shall be subject to removal by the governor for cause at any time. In case of a vacancy in the office of a member of the commission, an appointment shall be made to fill such vacancy in the manner prescribed by the constitution of the state of Montana.

Qualifications.

C. Persons appointed as members of the commission shall have been bona fide residents of the state of Montana for at least one (1) year before such appointment, and the two (2) industry members, shall have had at least three (3) years' experience in the production of oil or gas.

Oath.

D. Each member appointed to the commission and each person appointed to office by the said commission before entering upon the duties of his office shall take and subscribe to the oath specified in section 1, article 19, of the constitution of the state of Montana and such oaths shall be filed in the office of the secretary of state.

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E. The commission shall have a seal with the words engraved thereon: "Oil and Gas Conservation Commission of Montana," and such seal shall be affixed to all writs, authentication of records or other official proceedings of the commission. The courts of this state *shall* take judicial notice of such seal. Seal.

F. The commission shall appoint an executive secretary and may employ such other persons as experts, geologists, petroleum engineers, attorneys, assistants, field supervisors, clerks and stenographers and may acquire such personal property as may be necessary to perform the duties that may be required of it, and fix the compensation of the executive secretary and employees. Each member of the commission shall receive, as compensation for his services, the sum of *twenty dollars ($20)* per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the place at which he performs such duties, together with transportation and per diem expenses as provided by law in the discharge of said duties; provided, however, that the total expenditures of such commission shall not exceed in the aggregate during any fiscal year, the amount actually collected under the provisions of section 60-145, plus any amount appropriated for that purpose, or otherwise accruing to said fund." Employees.

Approved: March 3, 1969.

CHAPTER 197

An Act to Amend Sections 82-1924, 82-1925, and 82-1926, R.C.M. 1947, to Provide that All Contracts of the State of Montana, Agencies Thereof, Political Subdivisions Thereof, School Districts and Other Public Corporations for Materials, Supplies, Equipment, Construction, Repair and Public Works, Including Contracts Involving Funds Obtained from the Federal Government Unless Expressly Prohibited by the Laws of the United States or Regulations Adopted Pursuant Thereto, Shall be Awarded to the Lowest Responsible Bidder Who is a Resident of or Has Its Principal Place of Business in the State of Montana Whose Bid Is Not More than Three

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Percent Higher Than that of the Lowest Responsible Bidder Who Is Not a Resident of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1924, R.C.M. 1947, is amended to read as follows:

State contracts to be awarded to lowest responsible resident bidder.

"82-1924. **State contracts to be awarded to lowest responsible resident bidder.** In order to provide for an orderly administration of the business of the state of Montana in awarding contracts for materials, supplies, equipment, construction, repair and public works of all kinds, it shall be the duty of each board, commission, officer or individual charged by law with the responsibility for the execution of the contract on behalf of the state, board, commission, political subdivision, agency, school district or a public corporation of the state of Montana, to award such contract to the lowest responsible bidder who is a resident of the state of Montana and whose bid is not more than *three percent (3%)* higher than that of the lowest responsible bidder who is a non resident of this state. *In awarding contracts for purchase of products, materials, supplies or equipment such board, commission, officer or individual shall award the contract to any such resident whose offered materials, supplies or equipment are manufactured or produced in this state by Montana industry and labor and whose bid is not more than three percent (3%) higher than that of the lowest responsible resident bidder whose offered materials, supplies or equipment are not so manufactured or produced, provided that such products, materials, supplies and equipment are comparable in quality and performance.* This requirement shall prevail whether the law *requires* advertisement for bids or does not require advertisement for bids *and it shall apply to contracts involving funds obtained from the federal government unless expressly prohibited by the laws of the United States or regulations adopted pursuant thereto."*

Amending clause.

Section 2. Section 82-1925, R.C.M. 1947, is amended to read as follows:

Residence defined— domestic corporations.

"82-1925. **Residence defined — domestic corporations.** For the purpose of this act the word 'resident' shall include actual residence of an individual within the state for a period of more than one (1) year immediately prior to

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bidding; in a partnership enterprise or an association, the majority of all partners or association members shall have been actual residents of the state of Montana for more than one (1) year immediately prior to bidding; domestic corporations organized under the laws of the state of Montana are prima facie eligible to bid as residents but this qualification may be set aside and a successful bid disallowed where it is shown to the satisfaction of the board, commission, officer or individual charged with the responsibility for the execution of such contract that said corporation is a wholly owned subsidiary of a foreign corporation *or* that said corporation was formed for the purpose of circumventing the provisions of this act relating to residence. *Notwithstanding the foregoing, any individual, partnership or corporation, foreign or domestic and regardless of ownership thereof, whose offered materials, supplies or equipment are manufactured or produced in this state by industry located in Montana and Montana labor shall be deemed to be a resident for the purpose of this act.*"

Amending clause.

Section 3. Section 82-1926, R.C.M. 1947, is amended to read as follows:

Contract provision for preference to Montana products—failure to comply—federal-aid projects.

"82-1926. **Contract provisions for preference to Montana products—failure to comply—federal-aid projects.** Each contract awarded by any political subdivision, school district, public corporation or agency of the state of Montana shall contain among its provisions a requirement that in all instances products manufactured or produced in this state by Montana industry and labor shall be preferred for use in all projects and in all materials, supplies and equipment, if such products, materials, equipment and supplies are comparable in price and quality. Further, in this connection, it is the intent of this act that wherever possible products manufactured and produced in this state which are suitable substitutes for products manufactured or produced outside the state and comparable in price, quality and performance, shall be preferred for use in all projects and in all state institutions.

Failure to comply with the law in this respect shall disqualify such contractor as a qualified bidder for future contracts with the state of Montana, any legal subdivision of the state of Montana, any school district, public corporation or agency for a period of two (2) years.

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The preference herein given to Montana products shall apply to contracts involving funds obtained from the federal government unless expressly prohibited by the laws of the United States or regulations adopted pursuant thereto.''

Approved: March 3, 1969.

CHAPTER 198

An Act Amending Section 25-306, R.C.M. 1947, to Increase Salaries of Justices of the Peace in Certain Townships.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-306, R.C.M. 1947, is amended to read as follows:

Salaries of justices of the peace in certain townships—hours—quarters.

"25-306. **Salaries of justices of the peace in certain townships—hours—quarters.** Justices of the peace in townships having a population of ten thousand (10,000) people, and not exceeding fifteen thousand (15,000) people, shall each receive a salary of *four thousand two hundred dollars ($4,200)* per annum, payable monthly from the county treasury; justices of the peace in townships having a population of more than fifteen thousand (15,000) people, and not exceeding eighteen thousand (18,000) people, shall each receive a salary of *four thousand five hundred dollars ($4,500)* per annum, payable monthly from the county treasury; justices of the peace in townships having a population of more than eighteen thousand (18,000) people, shall each receive a salary of *five thousand five hundred dollars ($5,500)* per annum, payable monthly from the county treasury; justice of the peace in such townships shall receive no other additional fees or compensation whatever, except that they may receive and keep those fees designated as ''miscellaneous fees'' by section 25-304; justices of the peace in townships having a population of less than ten thousand (10,000) people shall receive the fees and emoluments provided under existing laws; justices of the peace in townships having a population of ten thousand (10,000) people and upwards shall keep their offices open for business from 9 o'clock a.m. to 12 o'clock *noon,* and from 1 o'clock p.m. to 5 o'clock p.m. on all judicial days, and at such other hours on judicial days as they may de-

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sire; providing, however, the office may be closed from 1 o'clock p.m. to 5 o'clock p.m. on Saturdays and such justices shall occupy such quarters as may be furnished and selected for them by the board of county commissioners, and said board may, in its discretion, select suitable quarters for such justices and may, in its discretion, pay for same from money in the county treasury.''

Approved: March 3, 1969.

CHAPTER 199

An Act to Provide for the Reclamation of Strip Coal Mined Lands and Declaring a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy for the reclamation of lands after surface coal mining operations.

Section 1. It is declared to be the policy of this state to provide, after surface coal mining operations are completed, for reclamation of affected lands to encourage productive use including but not limited to: the planting of forests; the seeding of grasses and legumes for grazing purposes; the planting of crops for harvest; the enhancement of wildlife and aquatic resources; the establishment of recreational, home, and industrial sites; and for the conservation, development, management and appropriate use of all the natural resources of such areas for compatible multiple purposes, to aid in maintaining or improving the tax base, and protecting the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values, in the affected areas of this state.

Section 2. Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

"Reclamation for productive use."

(1) ''Reclamation for productive use'' means conditioning areas affected by surface coal mining to make them suitable for any uses or purposes consistent with those enumerated in the statement of policy.

"Overburden."

(2) ''Overburden'' means all of the earth and other materials which lie above natural deposits of coal, and also means such earth and other materials disturbed from their natural state in the process of surface coal mining.

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"Surface mining." (3) "Surface mining" relates to the mining of coal, by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed.

"Operator." (4) "Operator" means any person, firm, association, cooperative, corporation, and department, agency, or instrumentality of the state, or any governmental subdivision thereof engaged in and controlling a surface coal mining operation.

"Pit." (5) "Pit" means a tract of land, from which overburden has been or is being removed for the purpose of surface coal mining.

"Final cut." (6) "Final cut" means the last pit created in a surface coal mined area.

"High wall." (7) "High wall" means that side of the pit adjacent to unmined land.

"Affected land." (8) "Affected land" means the area of land from which overburden has been removed for surface mining of coal or upon which overburden or refuse has been deposited, or both.

"Refuse." (9) "Refuse" means all waste material directly connected with the cleaning and preparation of coal mined by surface coal mining.

"Ridge." (10) "Ridge" means a lengthened elevation of overburden created in the surface coal mining process.

"Peak." (11) "Peak" means a projecting point of overburden created in the surface coal mining process.

"Commission." (12) "Commission" means the Montana bureau of mines and geology, or such department, bureau, or commission as may lawfully succeed to the powers and duties of said commission.

"Permit term." (13) "Permit term" means a period of time beginning with the date upon which a permit is given for strip coal mining of lands under the provisions of this act, and ending with the expiration of the next succeeding three years.

Violation—contract for restoration. Section 3. It shall be unlawful, after January 1, 1970, for any operator to engage in surface coal mining, in an area where the overburden shall exceed ten (10) feet in depth, without first contracting for the restoration of the

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affected lands in accordance with the provisions of sections 50-1001, 50-1002, 50-1003, and 50-1004, R.C.M. 1947, or obtaining from the commission a permit so to do, in such form as is hereinafter provided.

Permit to engage in surface coal mining—overburden in excess of 10 feet.

Section 4. (1) Any operator desiring to engage in surface coal mining, in an area where the overburden shall exceed ten (10) feet in depth, shall make written application to the commission for a permit. Application for the permit shall be made upon a form furnished by the commission, which form shall contain a description of the tract or tracts of land and the estimated number of acres thereof to be affected by surface coal mining by the applicant in the next succeeding three (3) years, which description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty so that it may be located and distinguished from other lands, and a statement that the applicant has the right and power by legal estate owned to mine by surface coal mining and to reclaim the land so described.

Bond.

(2) Such application shall be accompanied by a bond or security to attach to the described lands from and after the time a permit is granted which shall meet the requirements of section 7 of this act; and a fee computed as follows: For an area of ten (10) acres or less to be affected during the permit term, a fee of twenty-five dollars ($25) and an amount equal to the amount of seven dollars fifty cents ($7.50) multiplied by the number of acres to be affected between two (2) and ten (10) acres, inclusive; for an area of more than ten (10) acres but not more than fifty (50)acres to be affected during the permit term, a fee of one hundred dollars ($100) and an amount equal to the amount of three dollars fifty cents ($3.50) multiplied by the number of acres to be affected between eleven (11) and fifty (50) acres, inclusive for an area of more than fifty (50) acres to be affected during the permit term, a fee of two hundred seventy-five dollars ($275) and an amonut equal to the amount of two dollars fifty cents ($2.50) multiplied by the number of acres to be affected in excess of fifty (50) acres. Upon the receipt of the application, a bond or security and all fees due from the operator, the commission shall issue a permit to the applicant which shall entitle him during the permit term to engage in surface coal mining on the land therein described.

Fees.

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Amendment of permit.

(3) An operator desiring to have his permit amended to cover additional land may file an amended application with the commission. Upon receipt of the amended application, and such additional fee and bond or security as may be required under the provisions of this act, the commission shall issue an amendment to the original permit covering the additional land described in the amended application.

Withdrawal of land.

(4) An operator may withdraw any land covered by a permit, excepting affected land, by notifying the commission thereof, in which case the penalty of the bond or security filed by such operator pursuant to the provisions of this act shall be reduced proportionately.

Extending of permit.

(5) Where acreage for which a permit has been in effect is not mined, or where coal mining operations have not been completed thereon during the permit term, the permit as to such acreage shall be extended by the department on a year-to-year basis without payment of any additional fee.

Permit requirements.

Section 5. Every operator to whom a permit is issued pursuant to the provisions of this act may engage in surface coal mining during the permit term upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

Grading of ridges.

(1) All ridges and peaks of land affected by surface coal mining within six hundred sixty (660) feet of existing right of way and which are visible from any public road maintained with public funds, public building or cemetery that is being maintained in a usable condition, shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes having a grade no greater than the original grade of the overburden of that area prior to mining.

Construction of dams.

(2) The operator shall construct earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound water, provided the formation of the lakes or ponds will not interfere with underground or other mining operations.

Access roads.

(3) On all affected land which is to be afforested the operator shall construct reasonable access roads through the area.

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Pastures.

(4) On all affected land which is to be seeded to pasture the operator shall wherever reasonable strike off all peaks or ridges to a minimum width of thirty-five (35) feet at the top.

Crop land.

(5) On all affected land which is to be used for crops including hay, the operator shall grade peaks and ridges and fill valleys in such manner that the reclaimed land will not have grades greater than the original grades of the overburden of the area prior to the coal mining operation.

Lateral support—limitations.

(6) Surface coal mining operations that remove and do not replace the lateral support, unless mutually agreed upon by the operator and the adjacent property owner, shall not approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to ten (10) feet plus one and one-half (1 ½) times the depth of the excavation, except where consolidated material or materials of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing exists in the high wall, in which case the distance from the property line or any established right-of-way line, unless mutually agreed, shall not be closer than a distance equal to ten (10) feet plus one and one-half (1 ½) times the depth from the natural ground surface to the top of the consolidated material or materials.

Report of operations.

(7) The operator shall submit to the commission no later than the first day of September during each year of the permit term, a map in a form acceptable to the commission showing the location of the pit or pits by section, township, range, and county, with such other description as will identify the land which the operator has affected by surface coal mining during such permit term and has completed mining operations thereon, with a legend upon such map showing the number of acres of affected land.

Reclamation plan.

(8) A reclamation plan and map acceptable to the commission shall be submitted by the operator not later than the first day of December following the first year of the permit term. The operator's reclamation plan and the commissions's approval shall be based upon the advice and technical assistance of the state soil conservation committee, the state fish and game commission, the state forester, and other agencies or individuals having experience in foresting and reclaiming surface-mined lands with forest or agro-

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nomic or horticultural species, based upon scientific knowledge from research into reclaiming and utilizing forest and agronomic species on surface coal mined lands. The operator shall designate which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial, or other uses including food, shelter, and ground cover for wildlife and shall show the same by appropriate designation on the reclamation map.

Planting of cover.

(9) The operator shall sow, set out, or plant upon the affected land described in the reclamation plan and map or maps, seeds, plants, cuttings of trees, shrubs, grasses, or legumes as shall be approved in writing by the commission.

Reclamation within 3 years.

(10) All reclamation provided for hereunder shall be carried to completion by the operator prior to the expiration of three (3) years after termination of the permit term, except that no planting of any kind shall be required to be made within depressed haulage roads or final cuts or any other area where pools or lakes may be formed by rainfall or drainage runoff from adjoining land. Where natural weathering and leaching of any of such affected land fails to support plant growth at the end of three (3) years, the commission shall, at the request of the operator, extend the reclamation period from year to year for a period of five (5) years from the termination of the permit term on the land in question. If further extension of the reclamation period is necessary to accomplish acceptable reclamation, such extension shall be made at the discretion of the commission, or the commission shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed; however, after the second seeding or planting of any affected area, the area shall be deemed reclaimed.

Extension of time for reclamation.

(11) If the operator is unable to acquire sufficient planting stock of desired tree species from state nurseries, or acquire such tree species elsewhere at comparable prices, the commission shall grant the operator an extension of time until planting stock is available to plant such land as originally planned, or shall permit the operator to select an alternate method of reclamation in keeping with the provisions of this act.

Modification of reclamation plan.

(12) Upon the application of the operator, the commission in its discretion may allow the modification of an

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approved reclamation plan, provided that justice requires the modification, and the modified plan will carry out the purposes of this act.

Inspection.

Section 6. The commission, or its accredited representatives, may enter upon the lands of the operator at all reasonable times for the purpose of inspection, to determine whether the provisions of this act have been complied with.

Bond—form.

Section 7. (1) Any bond herein provided to be filed with the department by the operator shall be in such form as the commission shall prescribe, payable to the state of Montana, conditioned that the operator shall faithfully perform all requirements of this act and comply with all rules of the commission made in accordance with the provisions of this act. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety, licensed to do business in Montana, as surety. The penalty of such bond shall be two hundred dollars ($200) for each acre or portion thereof of land to be affected by surface coal mining in an area where the overburden shall exceed ten (10) feet in depth, for the ensuing permit term.

Deposit of security other than bond.

(2) In lieu of such bonds, the operator may deposit cash or government securities or both with the commission in an amount equal to that of the required surety bond on conditions as above prescribed. The penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as provided in this act. Such bond or security shall be in effect and subject to forfeiture in accordance with this act from and after the time a permit is granted by the commission until the mined acreages have been reclaimed, approved, and released.

Cancellation of bond—notice.

(3) A bond filed as above prescribed shall not be cancelled by the surety unless it shall give not less than ninety (90) days' notice to the commission, and in no event shall a bond be cancelled on lands that at the time of cancellation have become affected lands under the provisions of this act.

Failure of surety.

(4) If the license to do business in Montana of any surety upon a bond filed with the commission pursuant to this act shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the commission, shall substitute for such surety a good and

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sufficient corporate surety licensed to do business in Montana. Upon failure of the operator to make substitution of surety as herein provided, the commission shall have the right to suspend the permit of the operator until such substitution has been made.

Notice of violation.

(5) The commission shall give written notice to the operator of any violation of this act or noncompliance with any of the rules and regulations promulgated by the commission hereunder and if corrective measures, approved by the commission, are not commenced, or agreed to within ninety (90) days, the commission may proceed as provided in section 9 of this act to request forfeiture of the bond or security. The amount of forfeiture shall be two hundred dollars ($200) for each acre or portion thereof of affected land. Such forfeiture shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this act.

Reclamation of land—bond forfeiture.

(6) The commission shall have the power to reclaim, in keeping with the provisions of this act, any affected land with respect to which a bond has been forfeited.

Notice of completion.

(7) Whenever an operator shall have completed all requirements under the provisions of this act as to any affected land, he shall notify the commission thereof. If the commission determines that the operator has completed reclamation requirements and achieved results appropriate to the use for which the area was reclaimed, the commission shall release the operator from further obligations regarding such affected land and the penalty of the bond shall be reduced proportionately.

Fees—disposition.

Section 8. All fees and forfeitures collected under the provisions of this act shall be deposited in the general fund in the state treasury.

Legal counsel.

Section 9. The attorney general, or his designated representative upon request of the commission, shall institute proceedings to have the bond of the operator forfeited for violation by the operator of any of the provisions of this act or for noncompliance with any lawful rule or regulation promulgated by the commission thereunder. Before making such request of the attorney general, the commission shall notify the operator in writing of the alleged violation or noncompliance and shall afford the operator the right to appear before the department at a hearing to be

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held in accordance with section 10 of this act. After the conclusion of the hearing, the commission shall either withdraw the notice of violation or shall request the attorney general to institute proceedings to have the bond of the operator forfeited as to the land involved.

Rules and regulations.

Section 10. The commission may adopt and promulgate rules and regulations respecting the administration of the act. However:

Hearing record.

(1) whenever any operator appears at a hearing upon an alleged violation or noncompliance of this act, the commission shall prepare a written record of the hearing. All evidence, including records and documents in the possession of the commission of which it desires to avail itself in making its decision shall be offered and made a part of the record of the hearing;

Judicial review.

(2) any person aggrieved by any decision of the commission may have judicial review thereof by appeal, within thirty (30) days after the date of the decision of the commission, to the district court of the county in which the coal mining property is located;

(3) any party may move the court to remand the case to the commission to adduce additional specified and material evidence, if the party can show grounds for failure to adduce the evidence previously before the commission;

(4) the review by the district court shall be based solely on the record of the hearing before the commission. If the court finds that the decision of the commission is not supported by relevant, material, reliable, probative, or substantial evidence, it shall modify the decision of the commission or reverse it for further hearing;

(5) either the commission or the person aggrieved may appeal from the decision of the district court to the supreme court. The appeal to the supreme court shall be limited to a review of the record of the hearing before the commission and of the district court's review of that record.

Chief administrative officer.

Section 11. The chief administrative officer under this act shall be an inspector appointed by the commission who shall be responsible to the commission for carrying out its policies and directives in its administration of this act.

Violation—penalty.

Section 12. (1) Any person required by this act to

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have a permit who engages in surface mining in an area where the overburden shall exceed ten (10) feet in depth, without previously securing a permit to do so as prescribed by this act, is guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000). Each day of operation without the permit required by this act shall be deemed a separate violation.

Injunction.

(2) Authorized representatives of the commission shall by injunctive procedures, without bond or other undertaking, close down at once any operator found to be surface mining without a permit or in violation of the provisions of this act, or the rules and regulations promulgated thereunder. No liability whatsoever shall accrue to the commission or its authorized representative in closing down any operator pursuant to this section.

Federal relations.

Section 13. The commission shall have the authority to cooperate with and receive technical and financial assistance from the United States or any department, agency, or officer thereof, for any purposes relating to the reclamation of any affected lands.

Approved: March 4, 1969.

CHAPTER 200

An Act to Amend Section 87-149, R.C.M. 1947, by Providing for the Elimination of the Fifteen Dollars ($15) Maximum Wage Earnable Before Benefits Are Lost and Extending the One (1) Day's Work or Eight (8) Hour Limitation to Twelve (12) Hours.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-149, R.C.M. 1947, is amended to read as follows:

Total unemployment.

"87-149. **Definitions—continued.** (a) Total unemployment.

(1) An individual shall be deemed 'totally unemployed' in any week during which he performed no services and with respect to which no wages are payable to him.

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(2) An individual's week of unemployment shall be deemed to commence only after his registration at an unemployment office, except as the commission may by regulation otherwise prescribe.

"Wages"—to include.

(3) As used in this subsection the term 'wages' shall include only that part of remuneration for work which is in excess of *twice the weekly benefit amount, and the term 'service' shall include only that work in excess of twelve (12) hours in any one week.*

"Unemployment compensation administration fund."

(b) 'Unemployment compensation administration fund,' means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid.

"Wages."

(c) 'Wages,' means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the commission. Wage records kept by the commission for the purposes of this act prior to January 1, 1941, shall be kept on the basis of wages payable, and wage records kept by the commission for the purposes of this act after January 1, 1941, shall be kept on the basis of wages paid. Provided, however, that the term 'wages' shall not include—

"Wages"—not to include.

(1) The amount of any payment made to, or on behalf of, an employee by an employer on account of:

(A) Retirement, or

(B) Sickness or accident disability, or

(C) Medical and hospitalization expenses in connection with sickness or accident disability, or

(D) Death.

(E) Services performed for a fraternal benefit society, lodge, order, service club or association having a total annual payroll of less than five hundred dollars ($500) in any calendar year.

(F) Remuneration paid by any county welfare office

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from welfare assistance funds for services performed at the direction and request of such county welfare office.

(d) 'Week,' means a period of seven (7) consecutive calendar days ending at midnight on Saturday.

(e) 'Weekly benefit amount.' An individual's 'weekly benefit amount' means the amount of benefits he would be entitled to receive for one (1) week of total unemployment.

"Gross misconduct."

(f) 'Gross misconduct,' means a criminal act, other than a violation of a motor vehicle traffic law, for which an individual has been convicted in a criminal court or has admitted or conduct which demonstrates a flagrant and wanton disregard of and for the rights or title or interest of a fellow employee or his employer.''

Approved: March 4, 1969.

CHAPTER 201

An Act to Amend Section 26-301, R.C.M. 1947, Making It Unlawful to Use Self-Propelled Vehicles to Intentionally Concentrate, Drive, Rally, Stir Up or Harass Game Animals, Game Birds, and Fur-Bearing Animals.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-301, R.C.M. 1947, is amended to read as follows:

Restrictions of manner of taking and possessing fish and game and powers of commission relating thereto.

"26-301. **Restrictions of manner of taking and possessing fish and game and powers of commission relating thereto.**

(1) It shall be unlawful for anyone to take, capture, shoot, kill, or attempt to take, capture, shoot or kill, any game animal, or game bird from any self-propelled or drawn vehicle, or on, or from any public highway in the state of Montana, or by the aid or with the use of any set gun, jacklight, or other artificial light, trap, snare, salt lick, nor shall any such set gun, jacklight or other artificial light, trap, snare, salt lick or other device to entrap or entice game animals or game birds be used, made or set, nor may rifles be used to hunt or shoot upland

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game birds unless the use of rifles is permitted by the commission; provided, however, that this does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number ten (10) gauge fired from the shoulder, nor shall any game fish be caught, captured or taken, or attempted to be caught, captured or taken by the aid or with the use of any gun, or trap, nor shall any such set gun, or trap or other device to entrap game fish be used, made, or set.

(2) (a) No game birds or game or fur-bearing animals shall be killed, taken or shot at from any aircraft, nor shall any aircraft be used for the purpose of concentrating, pursuing, driving, rallying or stirring up any game or migratory birds, game or fur-bearing animals, nor shall any powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat or any boat under sail be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving or stirring up any game birds, or migratory waterfowl, or game or fur-bearing animals.

(b) No person in an aircraft in the air shall spot or locate any game, or migratory bird, game or fur-bearing animals and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person or persons then on the ground.

(3) No person shall take into a field or forest, or have in his possession while out hunting, any device or mechanism devised to silence, or muffle or minimize the report of any firearms, whether such device or mechanism be operated from or attached to any firearm.

(4) No person may use a shotgun to hunt, kill or shoot deer except with loads as specified by the commission.

(5) No person shall chase with dogs any of the game or fur-bearing animals as defined by the fish and game laws of this state; provided, however, that livestock owners, employees of the state fish and game commission and of the federal fish and wildlife service may use dogs in pursuit of stock-killing bears, or other means of taking stock-killing bears except the use of the dead fall; providing, however, that traps used in capturing bear shall be in-

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spected twice each day, which inspection shall be twelve (12) hours apart; and provided further, that a person may take game birds during the open season thereon with the aid of a dog or dogs and any person or association organized for the protection of game, may run field trials at any time upon obtaining written permission from the state fish and game director.

(6) The state fish and game commission shall have the power to designate certain waters where set lines may be used to fish for certain species of game or nongame fish, and the commission may designate the number of hooks and lines and the length of line or lines which may be used as set lines.

(7) Game fish shall be taken only by angling, that is by hook and single line in hand or single rod in hand, or within immediate control; this does not prevent, however, the snagging of paddlefish, coho (silver salmon), and kokanee (sockeye salmon) when the commission shall declare an open season when paddlefish, coho (silver salmon) and kokanee (sockeye salmon) may be taken by snagging, the taking of paddlefish with long bow and arrow when the commission shall declare an open season when paddlefish may be taken by long bow and arrow, nor the use of landing net or gaff to land a game fish after the same has been hooked by angling as above specified, nor does it prevent the taking of minnows other than game fish variety by the use or aid of a net not to exceed twelve (12) feet in length and four (4) feet in width, in such waters as may be designated by the commission.

(8) *It shall be unlawful for anyone to use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up or harass game animals, game birds or fur-bearing animals.*

(9) Whenever said fish and game commission shall have made any orders, rules or regulations for the carrying out of the powers granted to it under this act, the same shall take effect and be in force from and after the publication and posting of notice of said orders, rules and regulations as required by the fish and game laws.

Violation—penalty.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punishable as provided by law."

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Section 2. This act is effective upon its passage and approval. Effective immediately.

Approved: March 4, 1969.

CHAPTER 202

An Act Amending Section 84-4908, R.C.M. 1947, relating to the Alternative Standard Deduction Allowed in Computing Net Income, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-4908, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-4908. **Alternative deduction allowed in computing net income.** In the case of a resident individual, a standard deduction equal to ten per cent (10%) of adjusted gross income shall be allowed if elected by the taxpayer on his return. *The standard deduction shall be in lieu of all deductions allowed under section 84-4906, R.C.M. 1947, except the deduction allowed for Federal income taxes under paragraph (b) of that section.* The maximum standard deduction shall be five hundred dollars ($500) except in the case of a single joint return of husband and wife the maximum standard deduction shall be one thousand dollars ($1,000). The standard deduction shall not be allowed to *either the* husband or *the* wife if the tax of *one of the spouses* is determined without regard to the standard deduction. *For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.*" Alternative deduction allowed in computing net income.

Section 2. This act is effective as to taxable years ending on and after December 31, 1968. Effective date.

Approved: March 4, 1969.

CHAPTER 203

An Act Amending Section 11-1919 R.C.M. 1947, Relating to Payments to Fire Department Relief Associations to Allow an Alternative Method of Computing Payments.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1919 R.C.M. 1947, is amended to read as follows:

Payments to fire department relief associations to allow an alternative method of computing payments.

"11-1919. **State auditor to pay fire department relief association out of license fees collected from insurance companies.** At the end of the fiscal year, the state auditor shall issue and deliver to the treasurer of every city or town of the first and second class, for the use and benefit of the fire department relief association legally existing in every such city or town entitled by law to receive the same, out of the license fees on insurance risks collected by him, an amount equal to ten per centum (10%) of the total annual compensation paid by such city or town to its paid or part-paid firemen for services in the previous calendar year. The city clerk of each such city or town shall certify in writing to the state auditor, on or before March 1 of each year, the amount so paid by such city or town as compensation for services to paid or part-paid firemen.

In the event a city of the second class is not entitled to receive a sum equal to twenty-five one hundredths (25/100) mills of its total assessed valuation under the foregoing method of computation then, in that event, the fire department relief association of that city shall receive its money in the same manner as provided below for cities of the third class.

1. At the end of the fiscal year, the state auditor shall issue and deliver to the treasurer of every city or town, except cities or towns of the first or second class, for the use and benefit of the fire department relief association legally existing in every such city or town entitled by law to receive the same, his warrant for an amount equal to the taxes upon the fire portion of the direct premiums after deducting cancellations and return premiums, collected by the state auditor, ex officio insurance commissioner, from insurers authorized to effect insurance on risks enumerated in subsection 2 of this section, as said cities or towns are each severally entitled to, computed as follows:

(a) Each and every fire department relief association legally organized and existing in any city or town, except cities or towns of the first or second class, and entitled by law to receive the same shall receive, as its portion of

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the total taxes on premiums collected from insurers authorized to effect insurance on risks enumerated in subsection 2 of this section, the fire portion of the direct premiums, after deducting cancellations and return premiums, assessed and collected by insurers authorized to effect insurance on risks enumerated in subsection 2 of this section in the said city or town.

(b) The legally organized and existing fire department relief associations in all cities or towns where the taxes on premiums collected and distributed pursuant to subdivision (a) above is insufficient to make an amount equal to one hundred dollars ($100) shall receive such additional amount from the total taxes on premiums collected from insurers authorized to effect insurance against risks enumerated in subsection 2 of this section as may be necessary to make the total amount received by said fire department relief association equal to the sum of one hundred dollars ($100).

2. The risks referred to in subsection 1 above, are enumerated as follows: Insurance of houses, buildings, and all other kinds of property against loss or damage by fire or other casualty, and all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether on land or water or air; insurance against loss or damage to motor vehicles resulting from accident, collision, or marine and inland navigation and transportation perils; insurance of growing crops against loss or damage resulting from hail or the elements; insurance against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus; and insurance against loss or legal liability for loss because of damage to property caused by the use of teams or vehicles whether by accident or collision or by explosion of any engine or tank or boiler or pipe or tire of any vehicle, and also including insurance against theft of the whole or any part of any vehicle."

Approved: March 4, 1969.

CHAPTER 204

An Act to Establish the Montana Board of Hearing Aid Dispensers for the Licensing of Dealers and Persons En-

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gaged in the Sale and Fitting of Hearing Aids; to Provide for the Regulation of Selling and Fitting Hearing Aids to the Public; and to Provide for Penalties for Violation of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of policy.

Section 1. **Declaration of policy.** The selling and fitting of hearing aids is hereby declared to affect the public health and welfare and is subject to regulation and control in the public interest. This act shall be liberally construed to carry out the objects and purposes hereinafter described in accordance with this declaration of policy.

Creation of board.

Section 2. There is hereby created a board to be known as "Montana Board of Hearing Aid Dispensers."

Section 3. As used in this act, unless the context clearly indicates otherwise;

"Board."

(1) "Board" means the Montana board of hearing aid dispensers.

"License."

(2) "License" means a regular or temporary license.

"Hearing aid."

(3) "Hearing aid" means any instrument or device designed for or represented as aiding or improving defective human hearing and any parts, attachments or accessories of such an instrument or device.

"Practice of dispensing and fitting hearing aids."

(4) "Practice of dispensing and fitting hearing aids" means the evaluation or measurement of the powers or range of human hearing by means of an audiometer and a visual examination of the ear and canal or by any other means devised and the consequent selection, or adaption, or sale of hearing aids intended to compensate for hearing loss, including eyeglass hearing aids and their fittings, and the making of an impression of the ear, but will not include batteries, cords, or accessories.

Board members—qualifications.

Section 4. (1) The board shall consist of five (5) members. Three (3) of the members shall be qualified dispensers and fitters of hearing aids for at least five (5) years prior to appointment to the board, one (1) member of the board shall hold, or be eligible for, a certificate of qualification for the American Board of Otolaryngology, and one (1) member of the board shall hold, or be eligible for, a certificate of clinical competence in audiology from the American Speech and Hearing Association.

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Term of members.

(2) The governor shall appoint one (1) member each from lists of nominees submitted to him by the Montana Academy of Oto-opthalmology, and the Montana Speech and Hearing Association who shall serve for four (4) and five (5) years respectively. He shall choose three (3) members from a list of nominees submitted to him by the Montana Hearing Aid Dealers' Society; initially one (1) member from this list shall serve for three (3) years, one (1) member for two (2) years, and one (1) member for one (1) year. Each successive board member shall be appointed for a term of three (3) years.

Vacancy on board.

(3) If a vacancy occurs on the board, the governor shall appoint a person to serve the unexpired term from the same list that the member was chosen whose term was not completed.

Officers.

(4) Members of the board shall annually designate one (1) member to serve as chairman and another member to serve as secretary-treasurer.

Limitation of term.

(5) No member of the board may be reappointed within one (1) year after the expiration of his second consecutive full term of office.

Alternate members.

(6) The governor shall appoint one (1) alternate board member from each of the three lists to serve when a regular board member cannot attend a scheduled meeting.

Powers and duties of board.

Section 5. The powers and duties of the board are to:

(1) authorize all disbursements necessary to carry out the provisions of this act;

(2) supervise and administer qualifying examinations to test the proficiency and knowledge of applicants for a license;

(3) license persons who apply to the board and who are qualified to practice the fitting of hearing aids;

(4) issue and renew licenses pursuant to this act;

(5) establish a procedure to act as a grievance board to receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this act, or their agents whether licensed or not.

(6) suspend or revoke licenses pursuant to this act;

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(7) appoint representatives to conduct or supervise the examination of applicants for license;

(8) designate the time and place for examining applicants for license;

(9) make and publish rules not inconsistent with the laws of this state which are necessary to carry out the provisions of this act;

(10) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice the fitting or selling of hearing aids;

(11) prepare all examinations required by the act;

(12) employ and fix the compensation of personnel necessary to carry out the provisions of this act;

(13) to initiate legal action to enjoin from operation, any person or corporation engaged in the sale and fitting of hearing aids in Montana, who is not licensed under the provisions of this act.

Meetings of board.

Section 6. The board shall meet at least once each year at a place and time determined by the chairman and at such other times and places specified by the chairman to carry out the purposes of this act. Three (3) members, including either the otolaryngologist or the audiologist, shall constitute a quorum.

Licensing.

Section 7. No person shall engage in the sale or practice of dispensing and fitting hearing aids or display a sign or in any other way advertise or hold himself out as a person who practices the dispensing and fitting of hearing aids unless he holds a current regular or temporary license issued by the board.

Bills of sale to persons supplied with hearing aid.

Section 8. (1) Any person who practices the fitting or dispensing of hearing aids shall deliver to each person supplied with a hearing aid, by him or at his order or direction, a bill of sale which shall contain the seller's signature, and show the name and address of his regular place of business and the number of his license together with a description of the make and type of the hearing aid furnished and the amount charged, with terms of guarantee, if any. The bill of sale shall also reveal the condition of

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the hearing device and whether it is new, used, or reconditioned.

Recommendation of examination.

(2) Any person practicing the fitting and sale of hearing aids shall, when dealing with a person eighteen (18) years of age and under or when the aid is to be purchased with state funds ascertain if the person has been examined by an otolaryngologist within ninety (90) days prior to the fitting and shall obtain his recommendations. If such not be the case, a recommendation to do so must be made to the purchaser and this fact be noted on the receipt.

Receipts—requirements.

(3) Such receipt must bear, in no smaller type than the largest used in the body portion, the following: Any examination (s) or representation (s) made by a licensed hearing aid dealer and fitter in connection with the fitting and selling of this hearing aid (s) is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice.

Exemptions from act.

Section 9. (1) This act does not apply to a person who is a physician licensed to practice by the board of medical examiners of the state of Montana.

(2) This act does not apply to a person while he is engaged in the practice of fitting hearing aids if his practice is part of the academic curriculum of an accredited institution of higher education, or part of a program conducted by a public agency or by a charitable or nonprofit organization which is primarily supported by voluntary contributions, unless they sell hearing aids.

Applicants—fees—qualifications.

Section 10. An applicant for a license shall pay a fee of fifty dollars ($50) and shall show to the satisfaction of the board that he:

(1) is a person of good moral character;

(2) has an education equivalent to a four (4) year course in an accredited high school, or has continuously engaged in the practice of fitting and dispensing hearing aids during the three (3) years preceding the date of application;

(3) is free of contagious or infectious disease.

Examination of applicants.

Section 11. (1) An applicant for a license who is notified by the board that he has fulfilled the require-

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ments of section 9 of this act shall appear at a time, place, and before such persons as the board may designate, to be examined by written and practical tests in order to demonstrate that he is qualified to practice the fitting of hearing aids.

(2) The board shall give examinations as required to permit applicants to be examined within thirty (30) days following the board's approval of application for examination. Examination may be delayed upon due notice to the board, within the provisions of section 11.

Test—to cover.

Section 12. The examination provided in subsection (1) of section 11 of this act shall consist of a test of knowledge and practical tests of proficiency where they apply in the following areas as they pertain to the fitting of hearing aids.

(1) Acoustics:
General Principles
The Decibel
Hearing and Speech

(2) The Human Ear:
External
Middle
Inner

(3) The Hearing Process:

(4) Disorders of Hearing:
Conductive
Sensori-neural
Central
Psychogenic

(5) Audiometry:
Pure Tone
Theory
Procedures
Speech

(6) The Hearing Analysis:
Audiogram
Auditory Area

(7) Hearing Aids:
History
Characteristics
Components

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(8) Practical use of the otoscope
Earmold
Impression

(9) Fittings:
Hearing Aid
Earmold

(10) Delivery and Checkup:

(11) or any change as deemed necessary by the board.

Registration and licensing.

Section 13. Every person engaged in the practice of fitting and dispensing of hearing aids upon the effective date of this act shall be registered and given a license by the board if he shall present satisfactory evidence to the board that he has been actively engaged in the practice of fitting and dispensing hearing aids in the state of Montana.

Temporary licensing.

Section 14. (1) An applicant who fulfills the requirements of section 10 but does not fulfill the requirements of section 13 of this act and who has not previously applied to take the examination provided under section 11 of this act may apply to the board for a temporary license.

(2) Upon receiving an application provided under subsection (1) of this section, accompanied by a fee of twenty-five dollars ($25), the board shall issue a temporary license which shall entitle the applicant to practice the fitting and dispensing of hearing aids for a period ending thirty (30) days after the conclusion of the next examination given after the date of issue.

(3) No temporary license shall be issued by the board unless the applicant shows to the satisfaction of the board that he is, or will be, supervised and trained by a person who holds a valid license issued under this act.

(4) If a person who holds a temporary license does not take the next examination given after the date of issue, the temporary license shall not be renewed, except for a good cause shown to the satisfaction of the board.

(5) If a person who holds a temporary license takes and fails to pass the next examination given after the date of issue, the board may renew the temporary license for a period ending thirty (30) days after the results of the next examination given after the dates of renewal are

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announced. In no event shall more than two (2) renewals be permitted. The fee for renewal shall be thirty dollars ($30).

Permanent place of business required for licensees.

Section 15. (1) A person who obtains a license to dispense hearing aids as a business must have a permanent place of business in the state of Montana that will be opened to serve the public, having the necessary testing, fitting and hearing aid accessories needed by the hard of hearing public in the wearing of hearing aids.

(2) Subsection (1) of this section does not apply to persons who obtain a license as sales people representing a licensed hearing aid dispenser.

(3) The board shall keep a record of the places of practice of persons who hold a regular license or temporary licenses. Any notice required to be given by the board to a person who holds a regular or temporary license may be given by mailing it to him at the address last given by him to the board.

License fee.

Section 16. A person who practices the fitting of hearing aids shall annually pay to the board a fee of fifty dollars ($50) for a renewal of his license. A thirty (30) day grace period shall be allowed after expiration of a license, during which it may be renewed on payment of a fee of fifty-five dollars ($55) to the board. After the expiration of the grace period, the board may renew a license upon payment of sixty dollars ($60) to the board. No person who applies for renewal, whose license was suspended for failure to renew, shall be required to submit to any examination as a condition of renewal for a three (3) year period after suspension.

License revocation—causes.

Section 17. Any person registered under this act may have his license revoked or suspended for a fixed period to be determined by the board for any of the following causes:

(1) Being convicted of a felony. The record of the conviction or a certified copy from the clerk of the court where the conviction occurred or by the judge of the court, shall be sufficient evidence to warrant revocation or suspension, provided that the person has not been pardoned by a governor or the president of the United States.

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(2) By securing a license under this act through fraud or deceit or false statements.

(3) For the personal use of a false name or alias in the practice of his profession, with fraudulent intent.

(4) For violating any of the provisions of this act.

(5) For obtaining any fee or making any sale by fraud or misrepresentation.

(6) Knowingly employing directly or indirectly any suspended or unlicensed person to perform any work covered by this act.

(7) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation however disseminated or published, which is improbable, misleading, deceptive, or untruthful.

(8) Representing that the services or advice, of a person licensed to practice medicine, or possessing certification as an audiologist, will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the terms "doctor," "clinic," "state registered," or other like words, abbreviations or symbols which tend to connote the medical profession when that use is not accurate. The terms "hearing center" shall be discontinued in accordance with the code of ethics of the National Hearing Aid Society.

(9) Permitting another to use his license or certificate.

(10) To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or falsely to disparage the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.

(11) To obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other lawful means.

(12) To directly or indirectly give, or offer to give, or permit or cause to be given money or anything

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of value to any person who advises another in a professional capacity as an inducement to influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser, or to influence persons to refrain from dealing in the products of competitors.

(13) Unethical conduct or gross incompetence or negligence in the performance of his duties, including repeated failure to make indicated medical referrals of his customers.

(14) Selling a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing aids, except in cases of selling replacement hearing aids.

Sale of business permitted.

Section 18. A business dispensing hearing aids may be sold provided the new owners comply with all the provisions of this act.

Licensing of licensees from other states.

Section 19. Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this act for the practice to fit and sell hearing aids, and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to this act are qualified to dispense and fit hearing aids, the board may issue a license to applicants who hold current, unsuspended and unrevoked licenses to fit and sell hearing aids in such other state or jurisdiction. No such applicants for a license pursuant to this subsection shall be required to submit to or undergo a qualifying examinaiton, or the like, other than the payment of fees, provided the person complies with all other requirements of this act.

Disposition of fees.

Section 20. (1) All fees including examination fees, license fees, renewal fees, fines, penalties and other payments, shall be deposited in an account in the earmarked revenue fund. The legislative assembly shall make appropriations out of the earmarked revenue fund for proper expenditures of the board, and no expenditure shall be made by the board until appropriation therefor has been made by the legislative assembly. Funds for operation of the board shall be disbursed under the general budgetary laws of the state.

Salary and per diem of board.

(2) Each member of the board shall receive twenty dollars ($20) per diem expenses when actually engaged in

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the discharge of his official duty, and in addition shall also be reimbursed for all reasonable and necessary travel expense in attending any meeting of the board within the state.

Violation and penalty.

Section 21. (1) Any person who practices the fitting or dispensing of hearing aids without a valid license shall be guilty of a misdemeanor and upon conviction be fined not more than five hundred dollars ($500), or by imprisonment for not more than ninety (90) days, or both.

(2) The board may enforce any provision of this act by injunction or by any other appropriate proceeding.

Hearings.

Section 22. (1) No license issued pursuant to this act may be suspended, revoked, denied or renewal denied without a hearing, if requested by the applicant, on due notice to the board within thirty (30) days after notice of the license being suspended, revoked or renewal denied.

(2) Any person aggrieved by a final decision of the board denying, revoking, or suspending a license may obtain review of the decision in the nature of an appeal in accordance with the provisions of this act on appeals.

Judicial review.

Section 23. (1) Thirty-one (31) days or sooner after the mailing of notice of a decision by the board, any party in interest who appeared before the board in connection with the matter may petition the assigned district court in the judicial district of the residence of the petitioner for the review of questions of law involved in the decision in the manner provided by law.

(2) The petitioner shall serve a copy of the petition and the accompanying papers upon the board eight (8) days or more prior to the date for which the application for relief is noticed, unless a shorter time is prescribed by an order to show cause granted by the court to which application is made.

(3) The board shall certify to the court in which the proceeding is pending questions of law involved in its decision. In making his decision, the judge of the district court may consider evidence outside the record.

(4) The proceeding to review and the questions certified are entitled to a preference. It is not necessary to file exceptions to the rulings of the board.

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(5) Upon final determination of the proceeding to review, the board shall enter a decision in accordance with the court determination.

(6) A record of all decisions of the board, properly indexed, shall be open to public inspection at all times during business hours.

Severability clause.

Section 24. It is the intent of the legislative assembly that if part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective immediately.

Section 25. This act is effective on its passage and approval.

Approved: March 4, 1969.

CHAPTER 205

An Act to Repeal Section 5-1124, R.C.M. 1947, Relating to Maintenance of Offices of Consolidated Banks.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Section 5-1124, R.C.M. 1947, is repealed.

Section 2. This act shall not effect any transaction, proceeding or application pending or consummated on or prior to the effective date of this act.

Approved: March 4, 1969.

CHAPTER 206

An Act Amending Section 41-1123, R.C.M. 1947, Relating to Hours of Labor of Railway Employees, to Reduce the Maximum Consecutive Hours of Labor for Railway Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 41-1123, R.C.M. 1947, is amended to read as follows:

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"41-1123. **Railway employees—hours of labor.** On all lines of railroads or railways operated in whole or in part within this state, the time of labor of locomotive engineers, locomotive firemen, conductors, trainmen, operators, and agents acting as operators, employed in running or operating the locomotive engines or trains on or over such railroads or railways in this state, shall not at any time exceed *twelve (12)* consecutive hours, or to be on duty for more than sixteen *(16)* hours in the aggregate in any twenty-four *(24)* hour period. At least eight *(8)* hours shall be allowed them off duty before said engineers, firemen, conductors, trainmen, operators, and agents acting as operators, are again ordered or required to go on duty; provided, however, that nothing in this section shall be construed to allow any engineer, fireman, conductor, or trainman to desert his locomotive or train in case of accident, storms, wrecks, washouts, snow blockade, or any unavoidable delay arising from like causes, or to allow said engineer, fireman, conductor, or trainman to tie up any passenger or mail train between terminals."

Railway employees—hours of labor.

Approved: March 4, 1969.

CHAPTER 207

An Act to Amend Section 53-101, R.C.M. 1947, to Permit the Use of Electronic Recording and Storage Media for the Maintenance of records by the Registrar of Motor Vehicles.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-101, R.C.M. 1947, is hereby amended to read as follows:

Amending clause.

"53-101. **Duties of registrar of motor vehicles—records.** 1. The warden of the state penitentiary shall be, and is hereby constituted the registrar of motor vehicles, trailers and semitrailers, and as such it shall be his duty to keep a record as hereinafter specified of all motor vehicles, trailers and semitrailers of every kind, and certificates of registration and ownership thereof, and of all dealers in motor vehicles.

Duties of registrar—records.

2. In the case of motor vehicles, trailers and semi-

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trailers, the record shall show the following: Name of owner, residence by town and county, business address, name and address of conditional sales vendor, mortgagee or other lien holder and amount due under contract or lien, manufacturer of car, manufacturer's designation of style of car or vehicle, identifying number, year of manufacture, character of motive power and shipping weight of car as shown by the manufacturer and the distinctive license number assigned such car or vehicle; and, if a truck or trailer, the number of tons capacity, and such other information as may from time to time be found desirable.

3. The registrar shall file applications for registration received by him from the county treasurers of the state and register the vehicles therein described and the owners thereof in suitable books or on index cards, as follows:

(a) Under distinctive license number assigned to vehicle by the county treasurers.

(b) Alphabetically under name of owners.

(c) Numerically under make and identifying number of vehicle.

(d) Such other index of registration as registrar shall deem expedient. *Vehicle registration records and indexes, and driver's license records and indexes, may be maintained by electronic recording and storage media.*

4. In the case of dealers the records shall show the information contained in the application for dealer's license as required by section 53-118, as well as the distinctive license number assigned to the dealer.

5. The registrar of motor vehicle shall appoint such deputies, subordinate officers, clerks, investigators and other employees as may be necessary to carry out this act, providing there be selected as many of the clerical help from the inmates of the state prison as the registrar determines to be possible. The salaries of all such appointees shall be fixed by the registrar of motor vehciles as authorized by the state board of examiners, with respect to salaries of other subordinate state officers and employees.

6. All office equipment, books, files and records belonging to the motor department shall be in the care and gen-

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eral custody and control of the registrar of motor vehicles at the state penitentiary. In order to prevent an accumulation of records and files which shall have ceased to be of any value the registrar of motor vehicles shall have the authority and it shall be his duty to destroy all correspondence, motor card and application card records after the expiration of five (5) years from the date thereof, and all conditional sales contracts and chattel mortgages and records pertaining thereto after the expiration of five (5) years after the date the same have ceased to be liens on the motor vehicles described therein.

7. The registrar may establish and maintain a shortwave radio station in order to report motor vehicle registration information to the highway patrol, sheriffs, and to chiefs of police of each incorporated city of the state who are able to communicate with such short-wave radio station.

8. All such records shall be open to inspection during all reasonable business hours and the registrar of motor vehicles shall furnish any information from said records upon payment by the applicant of the cost of transcribing the information requested."

Approved: March 4, 1969.

CHAPTER 208

An Act to Amend Section 1-324, R.C.M. 1947, Providing that Hearings on Rates, Fares, Charges, Classifications and Rules of Air Carriers May be Vacated When No Written Protests or Requests are Received.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 1-324, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"1-324. **Publication of notice.** Notice as required by section 1-323 shall be given by publication once a week for three (3) successive weeks in a newspaper of general circulation in the county in which the hearing is to be held *and by personal service by mailing to all interested parties. However, in the case of the hearings required by subdivisions (2) (b) and (9) of section 1-323, R.C.M. 1947, if no written protest or written request that the hearing be* **Publication of notice.**

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held is received by the commission within five (5) days after the date of the last publication of such notice, the commission may, in its discretion, vacate such hearing and fix and establish the rates, fares, charges, classifications and rules of the air carrier without hearing. The notice required herein shall state that the commission may vacate the hearing unless a written protest or request that the hearing be held is received by the commission as required by this section."

Approved: March 4, 1969.

CHAPTER 209

An Act Relating to Metropolitan Sanitary and/or Storm Sewer Districts Requiring County Commissioners, by Resolution, After Public Hearing, to Establish and Fix Rental Charges for Operation and Maintenance of the System and for Operation and Maintenance of a Sewage Treatment Plant; Amending Section 16-4416, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-4416, R.C.M. 1947, is hereby amended to read as follows:

Rates, charges and rentals for services.

"16-4416. **Rates, charges and rentals for services.** The board of county commissioners shall have full power and authority by ordinance or resolution to fix and establish just and equitable rates, charges and rentals for the services and benefits directly or indirectly afforded by any sanitary or storm sewer system *operated, controlled, and under the jurisdiction of* a metropolitan sanitary and/or storm sewer district formed under this chapter. Such rates, charges and rentals shall be as nearly as possible equitable in proportion to the services and benefits rendered, and may take into consideration the quantity of sewage produced and its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The board of county commissioners shall have authority, by resolution and after *public* hearing, to fix and establish the sewer rates, charges and rentals at amounts sufficient in each year, not to exceed *seven dollars ($7)* per unit user per year, to provide income and revenues

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adequate for the payment of the reasonable expense of operation and maintenance of the system; to fix and establish an additional charge not to exceed *seven dollars ($7)* per unit user per year *for the operation and maintenance of a sanitary and storm sewer system and of a sewage treatment plant;* and to levy and *to* assess a tax upon the taxable valuation of each *and every* lot or parcel of land and improvements *thereon* in the district not in excess of two (2) mills on each dollar of taxable valuation to provide sufficient revenues for the reserve fund of the amounts necessary to meet the financial requirements of such fund as described in section 16-4417."

Approved: March 4, 1969.

CHAPTER 210

An Act Amending Sections 11-3901, 11-3906 and 11-3907, R.C.M. 1947, Pertaining to the Urban Renewal Law and Providing for Neighborhood Development Programs.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-3901, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"11-3901. **Definitions.** The following terms wherever used or referred to in this act, shall have the following meanings, unless a different meaning clearly indicated by the context: (a) 'Agency' or 'urban renewal agency' shall mean a public agency created by section 11-3916. **"Agency."**

(b) 'Blighted area' shall mean an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age obselescence of buildings or improvements, whether residential or nonresidential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate or mixed uses of land or buildings; high density of population and overcrowding; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land cov- **"Blighted area."**

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erage; insanitary or unsafe conditions; deterioration of site; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime; substantially impairs or arrests the sound growth of the city or its environs, retards the provision of housing accommodations or constitutes an economic or social liability, and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, and morals in its present condition and use.

"Bonds." (c) 'Bonds' shall mean any bonds, notes, or debentures (including refunding obligations) herein authorized to be issued.

"Clerk." (d) 'Clerk' shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.

"Federal government." (e) 'Federal government' shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Local governing body." (f) 'Local governing body' shall mean the council or other legislative body charged with governing the municipality.

"Mayor." (g) 'Mayor' shall mean the chief executive of a city or town.

"Municipality." (h) 'Municipality' shall mean any incorporated city or town in the state.

"Obligee." (i) 'Obligee' shall include any bondholder, agent or trustees for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality.

"Person." (j) 'Person' shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or school district; and shall include any trustee,

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receiver, assignee, or other person acting in a similar representative capacity.

"Public body." (k) 'Public body' shall mean the state or any municipality, township, board, commission, district, or any other subdivision or public body of the state.

"Public officer." (l) 'Public officer' shall mean any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

"Real property." (m) 'Real property' shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

"Redevelopment." (n) 'Redevelopment' may include (1) acquisition of a blighted area or portion thereof; (2) demolition and removal of buildings and improvements; (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this act in accordance with the urban renewal plan, and (4) making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with the urban renewal plan.

"Rehabilitation." (o) 'Rehabilitation' may include the restoration and renewal of a blighted area or portion thereof, in accordance with an urban renewal plan, by (1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements neces-

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sary for carrying out in the area the urban renewal provisions of this act; and (4) the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself at its fair value for uses in accordance with such urban renewal plan.

"Urban renewal area."

(p) 'Urban renewal area' means a blighted area which the local governing body designates as appropriate for an urban renewal project or projects.

"Urban renewal plan."

(q) 'Urban renewal plan' means a plan, as it exists from time to time *for one or more urban renewal areas or* for an urban renewal project, which plan (1) shall conform to the comprehensive plan or parts thereof for the municipality as a whole; and (2) shall be sufficiently complete to indicate, *on a yearly basis or otherwise,* such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

"Urban renewal project."

(r) 'Urban renewal project' may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan.

"Neighborhood development program."

(s) 'Neighborhood development program' means the yearly activities or undertakings of a municipality in an urban renewal area or areas if the municipality shall elect to undertake activities on an annual increment basis. In the event of such election the municipality shall present its proposed annual increment activities or undertakings for public approval in keeping with section 11-3906 of this act. Such activity year shall relate to the budget year of the municipality.''

Amending clause.

Section 2. Section 11-3906, R.C.M. 1947, is amended to read as follows:

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"11-3906. **Preparation and approval of urban renewal projects and urban renewal plans.** (a) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has, by resolution, determined such area to be a blighted area and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a comprhensive plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared. For this purpose, and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt, and to revise from time to time, a comprehensive plan or parts thereof for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project plan in accordance with subsection (d) hereof.

Preparation and approval of urban renewal projects and urban renewal plans.

(b) The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the municipality. Prior to its approval of an urban renewal project, the local governing body shall submit such plan to the planning commission of the municipality for review and recommendations as to its conformity with the comprehensive plan or parts thereof for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within sixty (60) days after receipt of it. Upon receipt of the recommendations of the planning commission, or if no recommendations are received within said sixty (60) days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project plan prescribed by subsection (c) hereof.

(c) The local governing body shall hold a public hearing on an urban renewal plan after public notice thereof. Such notice shall be given by publication once each week

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for two consecutive weeks not less than ten (10) nor more than thirty (30) days prior to the date of the hearing in a newspaper having a general circulation in the urban renewal area of the municipality and by mailing a notice of such hearing not less than ten (10) days prior to the date of the hearing to the persons whose names appear on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown on the tax roll. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area affected, and shall outline the general scope of the urban renewal plan under consideration.

(d) Following such hearing, the local governing body may approve an urban renewal project if it finds that (1) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project; (2) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole; (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (4) that a sound and adequate financial program exists for the financing of said project.

Provided, that the local governing body must find the urban renewal project area to be blighted area as defined in section 11-3901.

(e) An urban renewal project plan may be modified at any time by the local governing body: Provided, that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest may be entitled to assert.

(f) Upon the approval of an urban renewal project by a municipality, the provisions of the urban renewal plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

(g) If the plan or any subsequent modification thereof involves financing by the issuance of general obligation bonds of the municipality as authorized in section 11-3913,

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subsection (c), or the financing of water or sewer improvements by the issuance of revenue bonds under the provisions of Title 11, chapter 24, or of sections 11-2217 to 11-2221, inclusive, the question of approving the plan and issuing such bonds shall be submitted to a vote of the taxpayers of such municipality in accordance with the provisions of sections 11-2308 to 11-2310, inclusive, at the same election and shall be approved by a majority of those taxpayers voting on such question. Aiding in the planning, undertaking or carrying out of an urban renewal project approved in accordance with this section shall be deemed a single purpose for the issuance of general obligation bonds, and the proceeds of such bonds authorized for any such project may be used to finance the exercise of any and all powers conferred upon the municipality by section 11-3907 which are necessary or proper to complete such project in accordance with the approved plan and any modification thereof duly adopted by the local governing body. Sections 11-2306 and 11-2307 shall not be applicable to the issuance of such bonds.

(h) The municipality may elect to undertake and carry out urban renewal activities on a yearly basis. In such event, the activities shall be included in the yearly budget of the municipality. Such activities need not be limited to contiguous areas; however, such activities shall be confined to the areas as outlined in the urban renewal plan as approved by the municipality in accordance with this act. The yearly activities shall constitute a part of the urban renewal plan and the municipality may elect to undertake certain yearly activities and total urban renewal projects simultaneously. The undertaking of urban renewal activities on a yearly basis shall be designated as a 'neighborhood development program' and the financing of such activities shall be approved in accordance with section 11-3906, subsection (g).''

Section 3. Section 11-3907, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-3907. **Powers.** Every municipality shall have all the power necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted: Powers of municipalities.

(a) To undertake and carry out urban renewal proj-

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ects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this act, and to disseminate blight clearance and urban renewal information.

(b) To provide or to arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets or roads in connection with an urban renewal project; to install, construct, and reconstruct, streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

(c) Within the municipality, to enter upon any building or property in any urban renewal area, in order to make surveys and appraisals, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain, or otherwise, any real property and such personal property as may be necessary for the administration of the provisions herein contained, together with any improvements thereon; to hold, improve, clear, or prepare for redevelopment any such property; to dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; provided, however, that no statutory provision with respect to the acquisition, clearance, or disposition of property by public bodies shall restrict a municipality in the exercise of such functions with respect to an urban renewal project.

(d) To invest any urban renewal project funds held in reserves or sinking funds or any such funds which are

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not required for immediate disbursement, in property or securities in which mutual savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to section 11-3910 at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

(e) To borrow money and to apply for, and accept, advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this act, and to enter into and carry out contracts in connection therewith. A municipality may include in any application or contract for financial assistance with the federal government for an urban renewal project such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act.

(f) Within the municipality, to make or have made all plans necessary to the carrying out of the purposes of this act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify, and amend such plans. Such plans may include, without limitation: (1) a comprehensive plan or parts thereof for the locality as a whole, (2) urban renewal plans, (3) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (4) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (5) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of urban blight and to apply for, accept, and utilize grants of, funds from the federal government for such purposes.

(g) To prepare plans for the relocation of families displaced from an urban renewal area, and to make reloca-

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tion payments and to co-ordinate public and private agencies in such relocation, including requesting such assistance for this purpose as is available from other private and governmental agencies, both for the municipality and other parties.

(h) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this act, and in accordance with state law; (1) levy taxes and assessments for such purposes; (2) acquire land by negotiation and/or eminent domain; (3) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places; (4) plan or replan, zone or rezone any part of the municipality; (5) adopt annual budgets for the operation of an urban renewal agency, department, or offices vested with urban renewal project powers under section 11-3915; (6) enter into agreements with such agencies or departments (which agreements may extend over any period) respecting action to be taken by such municipality pursuant to any of the powers granted by this act.

(i) Within the municipality, to organize, co-ordinate, and direct the administration of the provisions of this act as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectily promoted and achieved, and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively.

(j) To plan and undertake neighborhood development projects consisting of urban renewal project undertakings and activiteis in one or more urban renewal areas which are planned and carried out on the basis of annual increments in accordance with the provisions of this act for carrying out and planning urban renewal projects.

(k) To exercise all or any part or combination of powers herein granted.

(l) Nothing in this act shall be construed to authorize any municipality to construct or operate, as a part of any urban renewal project, any electric generation plant, electric transmission or distribution lines or other public util-

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ity facilities excepting water and sewer lines then operated by municipalities."

Approved: March 4, 1969.

CHAPTER 211

An Act Amending Section 14, Chapter 287, Laws of 1967, Compiled as Section 32-4714, R.C.M. 1947, Relating to Zoning of Certain Lands Adjacent to the Interstate and Primary System Highways, by Extending the Applicability of Chapter 287 for an Additional Period of Two (2) Years From January 1, 1970, Until January 1, 1972.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 14, Chapter 287, Laws of 1967, compiled as section 32-4714, R.C.M. 1947, is amended to read as follows:

Congressional action or nonaction.

"32-4714. **Congressional action or nonaction.** In the event that the congress should fail prior to January 1, *1972,* to make an appropriation for compensation purposes in such an amount that this state's share thereof will be sufficient to pay seventy-five per cent (75%) of the compensation provided for in section 9 (32-4709), to the extent payable under the Highway Beautification Act of 1965, and as estimated by the state highway commission, this act shall on January 1, *1972,* become automatically null and void. In any event, if at any time in the future congress should amend section 131 of title 23, United States Code, or whatever law might then provide for federally required control of signs by the several states, in such manner as to no longer require control of signs in areas adjacent to the primary system, or any part or parts thereof, this act shall automatically be deemed amended as of the effective date of such congressional action in such manner that it will thenceforth in no way whatsoever control, restrict, regulate, or in any way affect the erection or maintenance of signs in areas adjacent to the primary system, or to such part or parts thereof; provided, however, that nothing herein shall diminish the rights of any sign owner to compensation under section

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9 (32-4709) for signs which may theretofore have been removed from areas adjacent to the primary system."

Approved: March 4, 1969.

CHAPETR 212

An Act to Provide for Relocation Assistance for Persons Affected by Real Property Acquisitions for State Highway Purposes, and Amending Section 93-9913, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Payment of moving expenses.

Section 1. The payment of moving expenses shall be made to eligible persons in accordance with the provisions of this act and such rules and regulations as shall be adopted by the Montana highway commission.

Rules and regulations.

Section 2. The highway commission is authorized to adopt rules and regulations to implement the payment of moving expenses as authorized by this act. Such rules and regulations may include provisions authorizing payments made to individuals and families of fixed amounts not to exceed two hundred dollars ($200) in lieu of their respective reasonable and necessary moving expenses.

Section 3. As used in this act:

"Displaced person."

(a) "Displaced person" means any individual, family, business or farm operation which moves from real property acquired for state purposes or for a federal-aid highway.

"Individual."

(b) "Individual" means a person who is not a member of a family.

"Family."

(c) "Family" means two or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

"Business."

(d) "Business" means any lawful activity conducted primarily for the purchase and resale, manufacture, processing or marketing of products, commodities, or other personal property; or for the sale of services to the public; or by a nonprofit corporation.

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"Farm operation."

(e) "Farm operation" means any activity conducted primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Relocation advisory assistance.

Section 4. (a) The commission is authorized to give relocation advisory assistance to any individual, family, business or farm operation displaced because of the acquisition of real property for any project on the state highway systems.

(b) In giving such assistance, the commission may establish a temporary local relocation advisory assistance office to assist in obtaining replacement facilities for individuals, families and businesses which must relocate because of the acquisition of right-of-way for any project on the state highway systems.

Compensation of displaced persons.

Section 5. (a) As a part of the cost of construction the commission may compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property.

(b) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subdivision in lieu of the payments authorized by subdivision (a) of this section may receive a moving expense allowance, determined according to a schedule established by the commission not to exceed two hundred dollars ($200), and in addition a dislocation allowance of one hundred dollars ($100).

(c) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or five thousand dollars ($5,000), whichever is lesser. In the case of a business, no payment shall be made under this subdivision unless the commission is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establish-

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ment, not being acquired, which is engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half (½) of any net earnings of the business or farm operation, before federal and state income taxes, during the two (2) taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such two (2) year period. To be eligible for the payment authorized by this subdivision the business or farm operation must make its state income tax returns available and its financial statements and accounting records available for audit and confidential use to determine the payment authorized by this subdivision.

Payments for dwellings occupied less than one year.

Section 6. (a) In addition to the payments authorized by section 5, the commission, as a part of the cost of construction, may make a payment to the owner of real property acquired for a project on the state highway systems which is improved with a single, two (2) or three (3) family dwelling, actually owned and occupied by the owner for not less than one (1) year prior to the first written offer for the acquisition of such property.

(b) Such payment, not to exceed five thousand dollars ($5,000), shall be the amount, if any, which, when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the commission, to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and place of employment and available on the market.

(c) Such payment shall be made only to a displaced owner who purchases and occupies a dwelling, that meets standards established by the commission, within one (1) year subsequent to the date on which he is required to move from the dwelling acquired for the project.

Payments for dwellings occupied less than 90 days.

Section 7. (a) In addition to the payment authorized by section 5, as a part of the cost of construction, the commission may make a payment to any individual or family displaced from any dwelling not eligible to receive

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a payment under section 6, which dwelling was actually and lawfully occupied by such individual or family for not less than ninety (90) days prior to the first written offer for the acquisition of such property.

(b) Such payment, not to exceed one thousand five hundred dollars ($1,500), shall be the additional amount which is necessary to enable such individual or family to lease or rent for a period not to exceed two (2) years, or to make the down payment on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

Review of decisions.

Section 8. Any displaced person aggrieved by a determination as to eligibility for a payment authorized by this act, or the amount of a payment, may have his application reviewed by the highway commission, whose decision shall be final.

Rules and regulations.

Section 9. The commission is authorized to adopt rules and regulations to implement this act, and such other rules and regulations relating to highway relocation assistance as may be necessary or desirable under federal laws and the rules and regulations promulgated thereunder. Such rules and regulations shall include provisions relating to:

(a) A moving expense allowance, as provided in subdivision (b) of section 5, for a displaced person who moves from a dwelling, determined according to a schedule, not to exceed two hundred dollars ($200);

(b) The standards for decent, safe, and sanitary dwellings;

(c) Procedure for an aggrieved displaced person to have his determination of eligibility or amount of payment reviewed by the commission; and

(d) Eligibility of displaced persons for relocation assistance payments, the procedure for such persons to claim such payments and the amounts thereof.

Payments not included in income.

Section 10. No payment received by a displaced person under this article shall be considered as income for Montana state income tax purposes.

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Not to be construed as condemnation.

Section 11. Nothing contained in this act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of damages not in existence on the date of enactment of this act.

Amending clause.

Section 12. Section 93-9913 is amended to read as follows:

Date to which compensation will be assessed.

"93-9913. **The date with respect to which compensation shall be assessed.** For the purpose of assessing compensation the right thereto shall be deemed to have accrued at the date of the service of the summons, and its actual value as of that date shall be the measure of compensation for all property to be actually taken, and the basis of depreciation in value of property not actually taken, but injuriously affected. This shall not be construed to limit the amount of compensation payable by the state highway commission under the provisions of any legislation enacted pursuant to the Federal Highway Beautification Act of 1965. If an order be made letting the plaintiff into possession, as provided in section 93-9920, the full amount finally awarded shall draw lawful interest from the date on which the property owner surrenders possession of the property in accordance with the terms of such order to the earlier of the following dates:

(a) The date on which the right to appeal to the Montana supreme court expires, or if appeal is filed, to the date of final decision by the supreme court, or

(b) The date on which the property owner withdraws from court the full amount finally awarded.

If the property owner withdraws from court a fraction of the amount finally awarded, interest on such fraction shall cease on the date it is withdrawn but interest on the remainder of the amount finally awarded shall continue to the earlier of the aforesaid dates defined in (a) and (b) of this section. None of the amount finally awarded shall draw interest after the date on which the right to appeal to the Montana supreme court expires. No improvements put upon the property, subsequent to the date of the service of summons, shall be included in the assessment of compensation or depreciation in value,

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nor shall the same be used as the basis of computing such compensation or depreciation."

Approved: March 4, 1969.

CHAPTER 213

An Act to Amend Section 53-109, R.C.M. 1947, to Increase the Value Limitation From One Thousand Dollars ($1,000) to Four Thousand Dollars ($4,000) of Motor Vehicles, and/or Trailers, and/or Semitrailers, and/or Trailer Houses Registered in the Name of a Decedent, the Title to Which May Be Transferred by the Decedent's Surviving Spouse or Other Heir in Those Cases in Which Probate of the Decedent's Estate Is Not Necessary.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-109, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"53-109. **Transfer of title or interest.** (a) Upon a transfer of any title or interest of an owner or owner in or to a motor vehicle registered under the provisions of this act as hereinbefore required, the person or persons whose title or interest is to be transferred shall write their signatures with pen and ink upon the certificate of ownership issued for such vehicle, in the appropriate space provided upon the reverse side of such certificate, and such signature shall be acknowledged before a notary public. Transfer of title or interest.

(b) Within ten (10) days thereafter, the transferee shall forward both the certificate of ownership so endorsed and the certificate of registration, together with the information required under section 53-107, to the registrar, who shall file the same upon receipt thereof and no certificate of ownership and certificate of registration shall be issued by the registrar of motor vehicles until the outstanding certificates are surrendered to that office or their loss established to his reasonable satisfaction.

(c) The provisions of subdivision (b) of this section, requiring a transferee to forward the certificate

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of ownership after endorsement and the certificate of registration to the registrar, shall not apply in the event of the transfer of a motor vehicle to a duly licensed automobile dealer intending to resell such vehicle and who operates the same only for demonstration purposes, but every such dealer shall upon transferring such interest deliver such certificate of ownership and certificate of registration with an application for registration executed by the new owner in accordance with the provisions of section 53-107, and the registrar upon receipt of said certificate of ownership, certificate of registration and application for registration, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership and certificate of registration together with a statement of any conditional sales contract, mortgage, or other lien as provided in said section 53-107.

(d) Until said registrar shall have issued a certificate of registration and certificate of ownership and statement as hereinbefore provided, delivery of any motor vehicle shall be deemed not to have been made and title thereto shall not have passed and said intended transfer shall be incomplete and not be valid or effective for any purpose.

(e) In the event of a transfer by operation of law of any title or interest of an owner of the legal title or owner in and to a motor vehicle as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in the performance of the terms of a lease or executory sales contract, or otherwise than by voluntary act of the person whose title or interest is so transferred, the executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of the person whose title or interest is so transferred shall forward to the registrar of motor vehicles an application for registration in the form required for an original application for registration, together with a verified or certified statement of the transfer of such title or interest which statement shall set forth the reason for such involuntary transfer, the title or interest so transferred, the name or names of the person or persons to whom such title or interest is to be transferred, the process of procedure effecting such transfer and such other information as

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may be requested by the registrar and with such statement shall be furnished such evidence and instruments as may otherwise be required by law to effect a transfer of legal or equitable title to or an interest in chattels as may be required in such cases, and in the event the registrar shall be satisfied that such transfer is regular and that all formalities as required by law have been complied with, he shall cause to be sent to the owner, conditional sales vendors, lessors, mortgagees and other lienors, as shown by his records notice of such intended transfer and thereafter, but not less than five (5) days thereafter, shall register such motor vehicle and shall issue a new certificate of ownership and certificate of registration to the person or persons entitled thereto. The notice herein required shall be deemed complied with by deposit in the post office in Deer Lodge, Montana, such notice, postage prepaid, addressed to such person or persons at the respective addresses shown on his records.

When the vehicle title that is involuntarily transferred is not registered in this state the procedure set forth above must be followed in applying for a new certificate of ownership and certificate of registration, but the registrar need not send notice of intended transfer and shall issue a new certificate of ownership and a new certificate of registration to the person entitled thereto.

In the event of the death of an owner of one or more motor vehicles and/or trailer, and/or semitrailer, and/or trailer-house registered hereunder and not exceeding the value of *four thousand dollars ($4,000),* without leaving other property necessitating the procuring of letters of administration or letters testamentary, then the surviving husband or wife, or other heir, unless such property is by will otherwise bequeathed, may secure transfer of the certificate of ownership and the certificate of registration of the deceased, in and to such motor vehicle in the name of the surviving husband or wife or other heir, as above mentioned, upon filing with the registrar an affidavit of such person setting forth the fact of survivorship and the name and address of any other heirs and such other facts as are hereby made *necessary* to entitle the affiant to a transfer and thereupon the registrar is authorized to make such transfer of the certificate of ownership and certificate of registration, subject to all contracts, leases, mortgages, or other liens as shown by his records.

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Nothing in the foregoing subdivision of this section shall prevent any conditional sales vendor, mortgagee, or other lienor from assigning his interest or title in or to a motor vehicle registered under the provisions of this act to any other person without the consent of and without effecting the interest of the holder of the certificate of ownership and certificate of registration. Upon any conditional sales vendor, mortgagee, or other lienor assigning his interest in any motor vehicle registered under this act a copy of such assignment must be filed with the registrar and record thereof made upon his records.

(f) Every person who transfers any motor vehicle to a junk dealer for the purpose of scrapping said vehicle shall so notify the registrar and deliver the certificate of ownership and certificate of registration to the registrar for cancellation."

Approved: March 4, 1969.

CHAPTER 214

An Act to Provide Financial Assistance to Enable Secondary Schools to Offer a Course in Driving Education by Earmarking a Percentage of Fines Assessed in All Offenses Involving a Violation of a State Statute or a City Ordinance Relating to the Operation of a Motor Vehicle to the Automobile Driver Education Account in the Earmarked Revenue Fund by Requiring the State of Montana to Annually Contribute to This Fund Five Percent (5%) of All Moneys Received From the Collection of Motor Vehicle Driver's License Fees; Providing That a Percentage of the Fine Specified in This Act Collected From Persons Arrested by Highway Patrolmen Be Allocated to the Automobile Driver Education Account in the Earmarked Revenue Fund; Amending Sections 31-114, 32-1131, and 94-801-2, R.C.M. 1947; and Repealing Sections 75-5301 Through 75-5309, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Financial assistance necessary to provide course in driving education in secondary schools.

Section 1. It is the purpose of this act to provide the financial assistance necessary to enable the board of trustees of any county high school or any district maintaining a secondary school which includes grades ten (10) to twelve

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(12) inclusive to offer a course in driver education and by that means to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, and an understanding of the causes and consequences of traffic accidents. The course in driver education shall further provide to the youthful drivers of this state training in the skills necessary for the safe operation of motor vehicles.

Section 2. As used in this act, unless the context indicates otherwise:

"Superintendent."

(1) "Superintendent" or "state superintendent" means the superintendent of public instruction.

"Driver education course."

(2) "Driver education course" means an accredited course of instruction in driver education which shall meet basic course requirements established by the superintendent of public instruction and each part of said course, both classroom instruction, and behind-the-wheel instruction, shall be taught by a qualified teacher of driver education.

Any or all portions of the course may be taught after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local board of trustees. High schools may cooperate in the presentation of such a course.

"Qualified teacher of driver education."

(3) "Qualified teacher of driver education" means an instructor certified by the superintendent of public instruction to teach both the classroom instruction and the behind-the-wheel instruction of the driver education course, under rules adopted by the state superintendent.

Duties of superintendent.

Section 3. (1) The superintendent shall administer, supervise, and develop the driver education program and shall assist local districts in the conduct of their driver education program.

Trustees may establish driver education course.

(2) The board of trustees of any county high school or any district maintaining a secondary school which includes grades ten (10) to twelve (12) inclusive, may establish and maintain a driver education course for pupils enrolled in the secondary schools in the district or county high schools provided that any student enrolled in the course will have reached his fifteenth (15th) birthday within six (6) months of course completion.

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Automobile driver education account—funding.

Section 4. (1) There is hereby established an automobile driver education account in the earmarked revenue fund. There shall be paid into this account a portion of the fines assessed on all offenses involving a violation of a state statute or a city ordinance relating to the operation or use of motor vehicles, except offenses relating to parking of vehicles, in the following amounts:

(a) where a fine is imposed, four dollars ($4) of every twenty dollars ($20) of fine imposed or twenty percent (20%) of the fine, whichever is greater;

(b) where multiple offenses are involved, twenty percent (20%) of the total sum of all fines imposed.

Where a fine is suspended, in whole or in part, the portion paid to the automobile driver education account in the earmarked revenue fund shall be in accordance with the fine actually imposed.

(2) The state of Montana shall annually contribute to the account five percent (5%) of all moneys received by the state of Montana from the collection of the motor vehicle driver's license fee provided for under the laws of the state of Montana. It shall be paid to the state treasurer of Montana and credited to the automobile driver education account in the earmarked revenue fund.

Forfeited deposits.

Section 5. When any deposit of bail is made for an offense to which section 4 of this act applies and the bail is forfeited, the same portion of the forfeited bail shall be deposited in the earmarked fund for driver education as would be deposited for the imposition of a fine.

Transmittal of proceeds from fines.

Section 6. The portion of the proceeds from fines specified in section 4 of this act shall be transmitted to the city or country treasurer, as the case may be, by the court collecting the same, in the manner and at the times that fines and bail forfeitures are transmitted to such treasurers under law. The city and county treasurers shall transmit to the state treasurer monthly, and without deduction, the portion of such fines received which are to be credited to the automobile driver education account in the earmarked revenue fund.

Transmittal of fees by courts.

Section 7. When a court is required under law to transmit fees, fines and forfeitures directly to the state treasurer of Montana, the gross proceeds including the

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portion of the fines to be credited to the automobile driver education account in the earmarked revenue fund shall likewise be so transmitted and credited to the driver education account in the earmarked revenue fund by the state treasurer.

Distribution of funds.

Section 8. (1) All moneys in the automobile driver education account shall be disbursed annually by the superintendent to school districts and county high schools providing driver education in accordance with the standards prescribed for such program and in accordance with such rules as may be promulgated by the superintendent for the administration of this act; provided that reimbursements to schools shall be based on the number of pupils completing the driver education program including both classroom instruction and practice driving (behind-the-wheel driving) between July 1 and June 30 of any fiscal year.

(2) Before such fund is allocated to the qualifying schools there shall be deducted therefrom such amount as may be necessary for the administration of this act including development, printing, and distribution of essential materials; preparation of teachers qualified in driver education; supervision of the program; and any and all other purposes deemed necessary by the superintendent; such amount not to exceed twenty-four thousand dollars ($24,000) annually. Such state reimbursement for driver education and all other nontax receipts for driver education shall be deposited by the county treasurer to the credit of the school district or county high school in a special nonbudgeted fund as provided in section 75-3722, R.C.M. 1947, and may be expended for the purposes provided by this act.

Amending clause.

Section 9. Section 31-114, R.C.M. 1947, is amended to read as follows:

Highway patrol—fees—fines and forfeitures.

"31-114. *Highway patrol*—**fees—fines and forfeitures.** All fees, fines and forfeitures collected in any court from persons apprehended or arrested by patrolmen for violation of this act and the laws and regulations relating to the use of state highways and the operation of vehicles thereon must be paid to the state treasurer of Montana and by him credited to the general fund of the state, except *for that portion of the fines, as provided in section 4 of this act,* which shall be paid into the automobile driver

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education account in the earmarked revenue fund; and at the time of payment of any such fee, fine or forfeiture there shall be filed with the state treasurer a complete statement showing the total of the fees, fines or forfeitures received or incurred, which statement shall give the title of the court and cause and be subscribed to by the person or officer making such payments."

Amending clause.

Section 10. Section 94-801.2, R.C.M. 1947, is amended to read as follows:

Traffic fines collected from juvenile offenders—disposition.

"94-801.2. **Traffic fines collected from juvenile offenders—disposition.** All fines collected by the district courts from children under eighteen (18) years of age, for unlawful operation of motor vehicles resulting from traffic summonses issued by the peace officers of the cities, counties, or by highway patrolmen, together with *that portion of the fines which is specified in section 4 of this act,* shall be retained by the county treasurer of the county in which the offense occurred and at the end of each month distributed as follows:

(a) Fines collected as the result of summonses issued by city police officers shall be distributed to the city in which the police officer is employed, and credited to the city general fund;

(b) Fines collected as the result of summonses issued by county peace officers shall be retained by the county treasurer and credited to the county road fund;

(c) Fines collected as the result of summonses issued by state highway patrolmen shall be paid to the state treasurer of Montana and by him credited to the general fund of the state;

(d) *That portion of the fines, as provided for in section 4 of this act,* shall be paid to the state treasurer of Montana and by him credited to the automobile driver education account in the earmarked revenue fund."

Amending clause.

Section 11. Section 32-1131, R.C.M. 1947, is amended to read as follows:

Speed and traffic regulations—disposition of fines.

"32-1131. *Speed and traffic regulations*—**disposition of of fines.** Any and all fines collected for the violation of any of the provisions of this act shall belong to the general road fund of the county, and shall, immediately after

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their collection, be paid over by the court or magistrate collecting the same to the county treasurer for the use and benefit of that fund, except *for that portion of the fines,* as provided for in section 4 of this act, which the county treasurer shall transmit to the state treasurer of Montana and by him credited to the automobile driver education account in the earmarked revenue fund."

Repealing clause.

Section 12. Sections 75-5301 through 75-5309, R.C.M. 1947, are repealed.

Effective immediately.

Section 13. This act shall be effective on its passage and approval.

Approved: March 4, 1969.

CHAPTER 215

An Act to Amend Section 32-4303, R.C.M. 1947, to Allow Designation of a Controlled Access Highway Without Federal Requirement.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-4303, R.C.M. 1947, is amended to read as follows:

Designation as controlled access highway resolution—findings.

"32-4303. **Designation as controlled access highway—resolution—findings.** (1) No portion of any interstate highway, throughway or throughway intersection, or other federal-aid or state highway shall be designated as a controlled access highway unless the commission shall adopt a resolution so designating it. The resolution shall be adopted by the majority vote of the members in attendance at any regular or special meeting. In it, the commission shall find and determine:

(a) That it is necessary and desirable that the owners or occupants of the abutting land or other persons shall have no easement of access or only a limited easement of access, light, air, or view.

(b) That it is necessary and desirable that the rights of, or easements to access, light, air, or view be acquired by the state so as to prevent such portion of highway from becoming unsafe for or impeded by unrestricted access of

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traffic from intersecting streets, alleys, public or private roads or ways of passage.

(2) The resolution shall contain a statement of the reasons for its adoption, and shall set forth the location, distance, and termini of the portion of the highway designated as a controlled access highway."

Approved: March 4, 1969.

CHAPTER 216

An Act Increasing the Membership of Local Boards of Health, Establishing Terms of Office, and Permitting Local Boards to Control Sewage Disposal; Amending Sections 69-4504, 69-4505, 69-4506 and 69-4509, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-4504, R.C.M. 1947, is amended to read as follows:

County boards of health—composition.

"69-4504. **County boards of health—composition.** There is a county board of health in each county consisting of:

(1) the county commissioners, *and two (2) members appointed by the county commissioners and serve at their pleasure; or*

(2) *five (5)* persons who are appointed by the county commissioners and serve at their pleasure. *Terms of appointed members shall be staggered and shall be for three (3) years each. County commissioners shall establish the staggered order of terms and all regulations necessary to establish and maintain the board."*

Amending clause.

Section 2. Section 69-4505, R.C.M. 1947, is amended to read as follows:

City boards of health—first and second class cities—appointment of members.

"69-4505. **City boards of health—first and second class cities—appointment of members.** There is a city board of health in each first and second class city consisting of *five (5)* persons who are appointed by the governing body of the city and serve at their pleasure. *Terms of appointed members shall be staggered and shall be for three (3) years each. The governing body of the city shall*

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establish the staggered order of terms and all regulations necessary to establish and maintain the board.''

Section 3. Section 69-4506, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4506. **City-county boards of health—appointment of members.** By mutual agreement between the county commissioners and the governing body of the city, the county and a first or second class city, or cities, may form a city-county board of health. A city-county board of health consists of: City-county boards of health—appointment of members.

(1) one (1) person appointed by the county commissioners who serves at their pleasure;

(2) one (1) person appointed by the governing body of each city that participates in the city-county board who serves at the pleasure of the appointing governing body;

(3) additional members appointed by the county commissioners and governing body, or bodies, of the city or cities participating in the city-county board as mutually agreed upon, who serve at the pleasure of the appointing commissioners or governing body. *The board shall be composed of at least five (5) persons. Terms of appointed members shall be staggered and shall be for three (3) years each. By mutual agreement between the county commissioners and the governing body of the city, they shall establish the staggered order of terms and all regulations necessary to establish and maintain the board.''*

Section 4. Section 69-4509, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4509. Functions, powers and duties of local boards of health. (1) Local boards shall: Functions, powers and duties of local boards of health.

(a) appoint a local health officer who is a physician and fix his salary;

(b) elect a chairman and other necessary officers;

(c) employ necessary qualified staff;

(d) adopt bylaws to govern meetings;

(e) hold regular meetings quarterly and hold special meetings as necessary;

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(f) supervise destruction and removal of all sources of filth which cause disease;

(g) guard against the introduction of communicable disease;

(h) supervise inspections of public establishments for sanitary conditions.

(2) Local boards may:

(a) quarantine persons who have communicable diseases;

(b) require isolation of persons or things which are infected with communicable diseases;

(c) furnish treatment for persons who have communicable diseases;

(d) prohibit the use of places which are infected with communicable diseases;

(e) require and provide means for disinfecting places which are infected with communicable diseases;

(f) accept and spend funds received from a federal agency, the state, a school district, or other persons;

(g) contract with another local board for all, or a part of, local health services;

(h) reimburse local health officers for necessary expenses incurred in official duties;

(i) abate nuisances affecting public health *and safety;*

(j) *adopt necessary regulations and fees for the control and disposal of sewage from private and public buildings not currently connected to any municipal system. Fees shall be deposited with the county treasurer;*

(k) adopt rules, which do not conflict with rules adopted by the state board:

(i) for the control of communicable diseases,

(ii) for the removal of filth which might cause disease or adversely affect public health,

(iii) on sanitation in public buildings which affects public health;

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(iv) for heating, ventilation, water supply and waste disposal in public accommodations which might endanger human lives."

Approved: March 4, 1969.

CHAPTER 217

An Act to Provide That Firemen Need Not Be Qualified Voters in a City for Membership in That Fire Department; and Amending Section 11-1905, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1905, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-1905. **Qualifications of firemen.** The qualifications of firemen shall be that they shall not, at the time of original appointment, *be* over thirty-one (31) years of age, and shall have passed a physical examination by a practicing physician duly authorized to practice in this state, which examination shall be in writing and filed with the city or town clerk, *and at the option of said city or town shall be qualified voters of the city or town.* Such examination shall disclose the ability of such applicant to perform the physical work usually required of firemen in the performance of their duty." Qualifications of firemen.

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved: March 4, 1969.

CHAPTER 218

An Act Amending Section 93-1107, R.C.M. 1947, Relating to the Judges' Retirement System and Redefining Final Salary.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-1107, R.C.M. 1947, is amended to read as follows:

Judges' retirement system.

"93-1107. **Judges' retirement system—definitions.** The following words and phrases as used in this act, unless a different meaning is plainly implied by the context, shall have the following meanings:

"Accumulated deductions."

'Accumulated deductions'—the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to his credit in the fund, together with the regular interest thereon.

"Beneficiary."

'Beneficiary'—shall be such person or persons having an insurable interest in his life as he shall nominate by written designation, duly acknowledged and filed with the board.

"Retired judge."

'Retired judge'—any person in receipt of a retirement allowance under this act.

"Board."

'Board'—the Montana judges' retirement board.

"Penalty retirement age."

'Penalty retirement age'—seventy (70) years of age.

"Contributor."

'Contributor'—any person who has accumulated deductions in the fund standing to his credit.

"Final salary."

'Final salary'—the annual salary for the office retired from *as of the date of retirement.*

"Actuarial equivalent."

'Actuarial equivalent'—the accumulated contributions and the present value of the member's state service based on length of service and member's attained age used to provide a life or temporary life income to the legally designated person, based on such person's attained age and sex at the time the option becomes available.

"Fund."

'Fund'—the Montana judges' retirement fund.

"Involuntary retirement."

'Involuntary retirement'—a retirement not for cause and before retirement age.

"Member's annuity."

'Member's annuity'—payments for life derived from contributions made by the contributor.

"Retirement allowance."

'Retirement allowance'—the state annuity plus the member's annuity.

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'State annuity'—payments for life derived from contributions made by the state of Montana.'' "State annuity."

Note: Senate Bill No. 155 was passed by the constitutional majority of both houses of the 41st Legislative Assembly (Senate March 2, 1969 and House March 3, 1969) over the veto of the Governor.

CHAPTER 219

An Act to Establish Complaint Procedures for Violations of Section 82-1926, R.C.M. 1947, Relating to Preference of Montana Products by Public Contractor; Amending Section 84-3510, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-3510, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-3510. **Complaints against licensee—grounds—investigation — hearing — suspension of license — appeals.** Any person, firm, copartnership, corporation, association or other organization may file a duly verified complaint with the registrar charging that the licensee is guilty of one or more of the following acts or omissions: Complaints against licensee—grounds—investigation—hearing—suspension of license—appeals.

(1) Abandonment of any contract without legal excuse;

(2) Diversion of funds or property received under express agreement for prosecution or completion of a specific contract under this act, or for a specified purpose in the prosecution or completion of any contract, and their application or use for any other contract, obligation or purpose with intent to defraud or deceive creditors or the owner;

(3) The doing of any willful fraudulent act by the licensee as a public contractor in consequence of which another is substantially injured;

(4) The making of any false statement in any application for a license or renewal thereof;

(5) The failure to comply with the provisions of Sec-

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tion 82-1926 requiring preference of products manufactured or produced in this state by Montana industry and labor.

Upon the filing of such complaint the registrar shall investigate the charge and within sixty days after the filing of such complaint shall render and file said registrar's decision with said registrar's reasons therefor. If the registrar's decision be that the licensee has been guilty of any of such acts or omissions, said registrar shall suspend the contractor's license. At any time within twenty days thereafter the complainant or the contractor may petition the registrar for a rehearing. In the order granting or denying such rehearing the registrar shall set forth a statement of the particular grounds and reasons for said registrar's actions on such petition and shall mail a copy of such order to the parties who have appeared in support of or in opposition to the petition for rehearing. If a rehearing be granted, the registrar shall set the matter for further hearing on due notice to the parties, and within thirty days after submission of the matter, serve said registrar's decision after rehearing in like manner as an original decision.

The filing of such petition for rehearing as to the registrar's actions in suspending or canceling such license shall suspend the operation of such action and permit the licensee to continue to do business as a public contractor pending final determination of the controversy.

Within thirty days after the decision on rehearing, any party aggrieved by such decision of the registrar may appeal therefrom to the district court in and for the county in which the licensee under this act resides or does business as a public contractor, by serving upon the registrar a notice of such appeal. The matter shall thereupon be heard de novo by the district court. An appeal may be taken from the decision of the district court in the same manner as appeals in other civil cases.

In all cases where the licensee has filed his notice of appeal from the decision of the registrar or from the decision of the district court, such licensee shall be entitled to continue to do business as a public contractor pending final decision of the controversy."

Approved: March 5, 1969.

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CHAPTER 220

An Act to Amend Section 11-1024, R.C.M. 1947, Relating to Group Hospitalization, Medical, Health, Accident and/or Group Life Insurance Contracts or Plans for the Benefit of Public Employees and Their Dependents and Repealing the Present Expiration Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1024, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"11-1024. **Group insurance for all departments, bureaus, boards, commissions and agencies of the state of Montana, county, city, and town officers and employees—authority—approval of employees—limit on contributions.** All departments, bureaus, boards, commissions and agencies of the state of Montana, and all counties, cities, and towns *shall* upon approval by two-thirds (2/3) vote of the officers and employees of each such department, bureau, board, commission, agency, county, city and town, to enter into group hospitalization, medical, health, accident and/or group life insurance contracts or plans for the benefit of their officers, employees, and their dependents, and the respective administrative and governing bodies pay as part of the officers and employees salary seven dollars and fifty cents ($7.50) per month for each officer and employee." **Group insurance.**

Section 2. Section 2 of chapter 200, Laws of Montana, 1967, is repealed. **Repealing clause.**

Approved: March 5, 1969.

CHAPTER 221

An Act Providing for the Establishment of an Intensive Rehabilitation Center at the Montana State Prison; Providing Standards of Admission to Such Center; Providing for the Management and Control of Such Center.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Within the budgetary limits provided them by law, the board of institutions is authorized to establish on property owned by the state of Montana on which **Establishment of an intensive rehabilitation center at Montana state prison.**

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prison facilities are or may be located a prison facility designed to make possible the segregation of certain types of prisoners from other prisoners.

Section 2. The facility shall be designated and known as the "intensive rehabilitation center" and shall be the place of custody for those male prisoners who in consideration of their age, type of crime for which committed, physical condition, behavior, attitude and prospects of reformation, are those most likely to benefit from such place of custody.

Section 3. The warden of the Montana state prison, subject to the supervision and control of the department of institutions shall operate and manage such intensive rehabilitation center, and shall make such rules and regulations for the operation, management, and admission to such center as may from time to time be necessary and desirable.

Approved: March 5, 1969.

CHAPTER 222

An Act to Amend Section 91-623, R.C.M. 1947, to Provide That the Public Administrator May Summarily Settle Estates Valued at Less Than One Thousand Five Hundred Dollars ($1,500).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-623, R.C.M. 1947, is amended to read as follows:

Estates less than $1,500.

"91-623. **Estates less than** *fifteen* **hundred dollars** *($1,500)*. If the statement or statements furnished the public administrator in accordance with the provisions of section 91-621 show that the aggregate market value of the estate of such deceased person is *fifteen* hundred dollars *($1,500)* or less in value, then, upon demand of the public administrator, the person, firm, bank, or corporation holding, controlling, or owning the same, or any part thereof, shall turn over, endorse, or surrender the same to such public administrator at once, without the issuance of letters of administration to him. The public administra-

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tor shall, upon receipt of the money, evidence of indebtedness, or other personal property, issue a receipt to the person, firm, bank, or corporation delivering the same to him fully describing the property received. Such receipt, signed by the public administrator, shall fully discharge the person, firm, bank, or corporation receiving the same from all further liability to the estate of said deceased person, to the amount of money or for the property set out in said receipt."

Approved: March 5, 1969.

CHAPTER 223

An Act to Amend Section 79-1013, R.C.M. 1947, to Include the Montana State Highway Commission as a Reporting Agency and to Change the Reporting Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 79-1013, R.C.M. 1947, is amended to read as follows: Amending clause.

"79-1013. **Blanks for preparation of budget estimates—distribution—form—submission of information.** In the preparation of a state budget the director of the budget shall not later than the first day of July in the year preceding the convening of the legislative assembly, distribute to all state offices and institutions, including the judicial department, the proper blanks necessary for the preparation of budget estimates. These blanks shall be in such form as shall be prescribed by the director of the budget to procure such information as the director of the budget shall, in his discretion, feel is necessary for the preparation of a budget including budget estimates, estimates of revenues, actual revenues received, expenditures made and other information classified and grouped as requested by the director of the budget and covering such period or periods of time as specified by the director of the budget. Blanks for preparation of budget estimates—distribution—form—submission of information.

(a) Except as provided in this paragraph, it shall be the duty of each department and agency to submit information requested by the director of the budget on or before the first day of August in the year preceding the

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convening of the legislative assembly. Each unit of the university of Montana, each state custodial institution *and the Montana state highway commission* shall submit such information on or before the first day of September of such year.

(b) If any department, institution or agency shall fail to present such requested information within the time herein specified, the director of the budget shall note that fact in the budget submitted to the governor, and the director of the budget shall prepare a budget request on behalf of such department, institution or agency, based upon his studies of the operations, plans and needs thereof."

Approved: March 5, 1969.

CHAPTER 224

An Act to Authorize the State Board for Vocational Education to Lease Buildings and/or Lands Financed in Whole or in Part by the State to School Districts to Be Used for Post-Secondary Vocational-Technical Education.

Be it enacted by the Legislative Assembly of the State of Montana:

Board of vocational education may lease buildings to school districts.

Section 1. The state of Montana, as to certain lands or buildings owned by it, acting by and through the state board of vocational education, is hereby empowered and authorized to enter into a lease agreement for a term not to exceed forty (40) years, in order to lease to a school district any building and/or lands financed in whole or in part by an appropriation made by the legislature of the state of Montana for the purpose of supporting post-secondary vocational-technical education. The consideration necessary to support such a lease may be nominal.

Approved: March 5, 1969.

CHAPTER 225

An Act Amending Section 77-909, R.C.M. 1947, Relating to Providing Educational Opportunities in Units of the

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University of Montana System for Children of Members of the Armed Forces of the United States Who Were Killed or Died as a Result of Injuries, Disease or Disability While Serving on Active Duty During World War II and/or the Korean Conflict, to Include the Vietnam Conflict.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 77-909, R.C.M. 1947, is amended to read as follows: Amending clause.

"77-909. **War orphans' attendance to be without fees.** There shall be established under this act the authority of the state board of education to waive, the charges for the matriculation, tuition, any and all educational fees, for such children of members of the armed forces of the United States who served on active duty during World War II and/or the Korean *or Vietnam* conflicts and who, at the time of entry into such service, had legal residence in this state and who were heretofore, or shall hereafter be, either killed in action or shall have died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States, as are now attending or may hereafter attend any of the units of the greater university of Montana, provided: War orphans' attendance to be without fees.

(a) The educational assistance to which an eligible person is entitled to under this act may be afforded him during the period beginning on his eighteenth birthday, or on the successful completion of his secondary schooling, whichever first occurs, and ending on his twenty-third birthday, except that,

(b) If he serves on duty with the armed forces as an eligible person after his eighteenth birthday but before his twenty-third birthday, then such period shall end five (5) years after his first discharge or release from such duty with the armed forces excluding from such five (5) years all periods during which the eligible person served on active duty before August 1, 1963, pursuant to (1) a call or order thereto issued to him as a reserve after July 30, 1961, or (2) an extension of an enlistment, appointment or period of duty with the armed forces pursuant to the laws of the United States of America; however, in no

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event shall such period be extended beyond his thirty-first birthday by reason of this paragraph."

Approved: March 5, 1969.

CHAPTER 226

An Act Providing for an All-Purpose Annual Mill Levy for Cities and Towns; Providing for a Maximum Amount of Such Levy; Amending Sections 84-4701.1 and 84-4701.2, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4701.1, R.C.M. 1947, is hereby amended to read as follows:

All-purpose levy authorized.

"84-4701.1. **All-purpose levy authorized.** It is the purpose of this act to authorize and empower the cities and towns of the state of Montana, at their option, to make an all-purpose annual mill levy in lieu of the multiple levies now authorized by the statutes of the state of Montana. *The all-purpose mill levy shall not include the levy imposed to service and pay bonded indebtedness of municipalities or to pay judgments against municipalities, which levies may be made in addition to the all-purpose levy as provided in section 84-4701.6, R.C.M. 1947.* This act shall not be construed as repealing those statutes providing for multiple separate levies."

Amending clause.

Section 2. Section 84-4701.2, R.C.M. 1947, is hereby amended to read as follows:

Maximum rate of all-purpose levy.

"84-4701.2. **Maximum rate of all-purpose levy.** Notwithstanding the provisions of the statutes of Montana to the contrary, the cities and towns of the state of Montana may make an all-purpose annual levy upon the assessed value of all the taxable property in such cities and towns, for all municipal purposes in lieu of the multiple levies now authorized by statute. *The total of such multiple levy shall not exceed sixty (60) mills on the dollar, which levy shall not include any levy necessary to service and pay bonded indebtedness, or judgments in addition to the all-purpose levy as provided in sections 84-4701.1 and 84-4701.6."*

Approved: March 5, 1969.

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CHAPTER 227

An Act Amending Section 10-611, R.C.M. 1947, Relating to Hearings and Judgments in Juvenile Matters, by Deleting Therefrom the Requirement for Separating Inmates of the State Prison Under Twenty-One (21) From Those Who Are Over Twenty-One (21).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 10-611, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"10-611. The court may conduct the hearing in an informal manner and may adjourn the hearing from time to time. In the hearing of any juvenile case, as distinguished from a case involving a child charged with the commission of or attempt to commit any of the criminal offenses set out in subdivision (2) (b) of section 10-602, the general public shall be excluded and only such persons admitted as have a direct interest in the case; provided, however, that whenever the hearing in the juvenile court is had on a written petition charging the commission of any felony, persons having a legitimate interest in the proceeding, including responsible representatives of public information media, shall not be excluded from such hearing. All cases involving children shall be heard separately and apart from the trial of cases against adults. **Hearings and judgments in juvenile matters.**

If the court shall find that the child is delinquent within the provisions of this act, it may by order duly entered proceed as follows:

(1) Place the child on probation or under supervision upon such terms as the court shall determine.

(2) Commit the child to a suitable public institution or agency, except youth forest camps; or commit the child to the department of institutions or to a suitable private institution or agency incorporated under the laws of the state, approved by the state department of public welfare, and authorized to care for children; or to place them in suitable foster homes, approved by the department of public welfare, or the probation department.

(3) Order such further care and treatment as the court may deem best for the best interests of the child, except as herein otherwise provided.

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No commitment of any such delinquent child to any institution under this act shall be deemed commitment to a penal institution. No adjudication upon the status of any delinquent child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any delinquent child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of any crime in any court except as provided in the preceding section of this act. The disposition of the delinquent child or any evidence given in the court shall not be admissible as evidence against the child in any other case or proceeding.

Whenever the court shall commit a delinquent child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning such child.

Separation of inmates under 21 from those over 21.

Whenever a child or an adult under the age of twenty-one (21) years is convicted of a felony or felonies or attempt to commit a felony or felonies and is sentenced to imprisonment in the state prison, he shall, throughout the term of imprisonment or until such time as he reaches the age of twenty-one (21) years, *have sleeping quarters separate and apart from inmates who are over the age of twenty-one (21) years, and additionally shall be kept separate and apart at other times in those areas where staff and facilities will permit.''*

Effective immediately.

Section 2. This bill will be effective upon passage and approval.

Approved: March 5, 1969.

CHAPTER 228

An Act to Provide Rules Governing the Defense of Double Jeopardy, Providing When Such Defense Shall or Shall Not Be a Bar to a Second Prosecution and Defining When Conduct Arising Out of the Same Transaction May or May Not Establish the Commission of More Than One Offense; Repealing Sections 94-4807, 94-6806, 94-6807, 94-6808 and 94-7234, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definition of terms.**

(a) Same transaction. The term same transaction shall include conduct consisting of: "Same transaction."

(1) a series of acts or omissions motivated by a purpose to accomplish a criminal objective, and necessary or incidental to the accomplishment of that objective; or

(2) a series of acts or omissions motivated by a common purpose or plan and which result in the repeated commission of the same offense or affect the same person or the same persons or the property thereof.

(b) Included offense. An offense is an included offense when: "Included offense."

(1) it is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(2) it consists of an attempt to commit the offense charged or to commit an offense otherwise included therein; or

(3) it differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interest or a lesser kind of culpability suffices to establish its commission.

Section 2. **Method of prosecution when conduct constitutes more than one offense.** When the same transaction may establish the commission of more than one offense, a person charged with such conduct may be prosecuted for each such offense He may not, however, be convicted of more than one offense if: Method of prosecution—more than one offense. Not to be convicted—when.

(a) one offense is included in the other; or

(b) one offense consists only of a conspiracy or other form of preparation to commit the other; or

(c) inconsistent findings of fact are required to establish the commission of the offenses; or

(d) the offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or

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(e) the offense is defined to prohibit a continuing course of conduct and the defendant's course of conduct was interrupted, unless the law provides that specific periods of such conduct constitute separate offenses.

When prosecution barred by former prosecution.

Section 3. **When prosecution barred by former prosecution.** Provided the offenses, if more than one, were known to the attorney prosecuting upon sufficient evidence to justify the filing of an information or the issuance of a warrant of arrest and were consummated prior to the original charge, and provided the jurisdiction and venue of the several offenses lie in a single court, a prosecution based upon the same transaction as a former prosecution is barred by such former prosecution under the following circumstances:

(a) The former prosecution resulted in an acquittal. There is an acquittal if the prosecution resulted in a finding of not guilty by the trier of fact or in a determination that there was insufficient evidence to warrant a conviction. A finding of guilty of a lesser included offense than the offense charged which is subsequently set aside is an acquittal of the greater inclusive offense that was charged.

(b) The former prosecution was terminated, after a complaint had been filed on a misdemeanor charge, after an information had been filed or an indictment found on a felony charge, by a final order or judgment for the defendant, which has not been set aside, reversed, or vacated and which necessarily required a determination inconsistent with a fact or a legal proposition that must be established for conviction of the offense.

(c) The former prosecution resulted in a conviction. There is a conviction if the prosecution resulted in:

Conviction—when.

(1) a judgment of conviction which has not been reversed or vacated,

(2) a verdict of guilty which has not been set aside and which is capable of supporting a judgment, so long as failure to enter judgment was for a reason other than a motion of the defendant,

(3) a plea of guilty accepted by the court, so long as

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failure to enter judgment was for a reason other than a motion of the defendant.

(d) The former prosecution was improperly terminated. Except as provided in this subsection, there is an improper termination of a prosecution if the termination is for reasons not amounting to an acquittal, and it takes place after the first witness is sworn but before verdict. Termination under any of the following circumstances is not improper:

Termination—when not improper.

(1) The defendant consents to the termination or waives his right to object to the termination.

(2) The trial court, in the exercise of its discretion, finds that the termination is necessary because:

(i) it is physically impossible to proceed with the trial in conformity with law; or

(ii) there is a legal defect in the proceedings which would make any judgment entered upon a verdict reversible as a matter of law; or

(iii) prejudicial conduct, in or outside the courtroom, makes it impossible to proceed with the trial without manifest injustice to either the defendant or the state; or

(iv) the jury is unable to agree upon a verdict; or

(v) false statements of a juror on voir dire prevent a fair trial.

Former prosecution in another jurisdiction—when a bar.

Section 4. **Former prosecution in another jurisdiction: When a bar.** When conduct constitutes an offense within the concurrent jurisdiction of this state and of the United States or another state or of two courts of separate and/or concurrent jurisdiction in this state, a prosecution in any such other jurisdiction is a bar to a subsequent prosecution in this state under the following circumstances:

(a) The first prosecution resulted in an acquittal or in a conviction as defined in section 3 and the subsequent prosecution is based on an offense arising out of the same transaction.

(b) The former prosecution was terminated, after the complaint has been filed on a misdemeanor charge,

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after the information was filed or the indictment found, by an acquittal or by a final order or judgment for the defendant which has not been set aside, reversed or vacated and which acquittal, final order or judgment necessarily required a determination inconsistent with a fact which must be established for conviction of the offense of which the defendant is subsequently prosecuted.

Former prosecution before court lacking jurisdiction or when fraudulently procured by the defendant.

Section 5. **Former prosecution before court lacking jurisdiction or when fraudulently procured by the defendant.** A prosecution is not a bar within the meaning of section 3 and 4 under any of the following circumstances:

(a) The former prosecution was before a court which lacks jurisdiction over the defendant or the offense; or

(b) The former prosecution was procured by the defendant without the knowledge of the proper prosecuting officer or with the purpoise of avoiding the sentence which might otherwise be imposed; or

(c) The former prosecution resulted in a judgment of conviction which was held invalid in any post-conviction hearing.

Repealing clause.

Section 6. Sections 94-4807, 94-6806, 94-6807, 94-6808, 94-7234, R.C.M. 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 5, 1969.

CHAPTER 229

An Act Amending Section 75-4423, R.C.M. 1947, Providing That a Community College District Shall Provide Instruction in Academic, Occupational and Adult Education, Subject to Approval of the State Board of Education.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4423, R.C.M. 1947, is amended to read as follows:

Courses of instruction provided—tuition fees.

"75-4423. **Courses of instruction provided — tuition fees.** A community college district organized under this act shall provide instruction, classes, school or schools

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for student residents within the community college district, *in academic, occupational and adult education, subject to the approval of the state board of education.* The board of trustees of such district may in their discretion determine the per capita cost of such courses, file the same with the state board of education and upon approval thereof by the state board of education, shall require of all nondistrict residents who are accepted as pupils, a tuition fee in such sum as may be necessary for maintenance of such course or courses. A different tuition may be established as between nondistrict residents residing within the state of Montana and those residing outside the state of Montana. In addition thereto, such board of trustees may charge resident students such amounts as it deems necessary to maintain such courses, taking into consideration such other funds as may be available under law for the support of such courses."

Approved: March 5, 1969.

CHAPTER 230

An Act Establishing the Limitations on the Amount of Taxes to Be Assessed for General Municipal or Administrative Purposes, Providing a Levy for Parks, Swimming Pools, Skating Rinks, Playgrounds, Youth Centers and Other Purposes; Providing for a Levy for Recreational Uses; Amending Section 84-4701, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-4701, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"84-4701. **Limitation on amount of tax for municipal pursposes — distribution of funds — levy for park, swimming pools, playgrounds, youth centers and other purposes.** The amount of taxes to be assessed and levied for general municipal or administrative purposes in cities and towns must not exceed *two and four-tenths (2.4%) per centum* on the per centum of the assessed value of the taxable property of the city or town; and the council or commission in each city or town may distribute the money collected into such funds as are prescribed by ordi- Limitation on amount of tax for municipal purposes—distribution of funds—levy for recreation.

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nance; provided, that for the purpose of procuring, equipping and and maintaining public parks, swimming pools, skating rinks, playgrounds, civic centers, youth centers, museums and combinations thereof, the council or commission in any city or town may assess and levy, in addition to the said levy for general municipal or administrative purposes, not exceeding *seven (7) mills* on the dollar on the per centum of the assessed value of the taxable property of the city or town.''

Approved March 5, 1969.

CAPTER 231

An Act to Provide for Adopting Fire Prevention Codes; and Amending Section 11-1102, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1102, R.C.M. 1947, is amended to read as follows:

Ordinances—how prepared.

"11-1102. **Ordinances — how prepared.** (1) All ordinances, bylaws and resolutions must be passed by the council and approved by the mayor, or the person acting in his stead, and must be recorded in a book kept by the clerk called 'The Ordinance Book', and numbered in the order in which they are passed.

(2) The governing body of an incorporated city or town may adopt technical building, zoning, health, electrical, *fire,* and plumbing codes in whole or in part by reference. At least fifteen (15) days prior to final action by a governing body of the city or town, notice of intent to adopt a technical code in whole or in part by reference shall be published in a newspaper of general circulation in the city or town and three (3) copies of the code, or part to be adopted, shall be filed with the clerk of the city or town for inspection by the public.

(3) If a technical code, or part of a code, is adopted by reference, a record in 'The Ordinance Book' may be made by recording the ordinance without setting forth the provisions of the code, or part of a code, adopted.

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(4) Ordinances take effect from and after their passage, except as otherwise ordered, and no ordinance shall be passed containing more than one subject, which shall be clearly expressed in its title, except ordinances for the codification and revision of ordinances."

Approved March 5, 1969.

CHAPTER 232

An Act Amending Section 80-1903, R.C.M. 1947, to Provide That Forty Hours or Five Days Per Week Is the Normal Work Week for Correctional Personnel at the State Prison Except in Case of Riots or Escapes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 80-1903, R.C.M. 1947, is amended to read as follows: Amending clause.

"80-1903. **Working hours of prison employees.** A period of eight *(8)* hours in each period of twenty-four *(24)* consecutive hours constitutes a day's work for all employees of the state prison. The staff of correctional personnel shall not work more than *forty (40)* hours or *five (5)* days a week except in cases of riots, escapes or other emergencies endangering health, life, or property." Working hours of prison employees.

Approved March 5, 1969.

CHAPTER 233

An Act Amending Section 92-1101, R.C.M. 1947, to Permit the Industrial Accident Board to Prescribe the Procedure for the Payment of Premiums Under Plan No. 3 of the Workmen's Compensation Act; Amending Section 92-1103, R.C.M. 1947, to Permit the Industrial Accident Board to Prescribe the Procedure for Employers to Elect to Be Bound by Plan No. 3 of the Workmen's Compensation Act, the Effective Time, and the Manner of Terminating Such Election for Reasons Other Than Default in Payment of Premiums; Repealing Sections 92-1106 and 92-1107, R.C.M. 1947; and

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Amending Section 92-1108, R.C.M. 1947, to Recognize the Repeal of Sections 92-1106 and 92-1107, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-1101, R.C.M. 1947, is amended to read as follows:

Compensation plan No. 3.

"92-1101. **What necessary in electing plan No. 3 — percentage of payroll to be paid under plan.**

COMPENSATION PLAN NUMBER THREE

Every employer subject to the provisions of compensation plan No. 3 shall *at the times and in the manner prescribed by the industrial accident board,* pay to the industrial accident board a premium based on a percentage of his payroll as determined by the industrial accident board in accordance with the provisions of this act."

Amending clause.

Section 2. Section 92-1103, R.C.M. 1947, is amended to read as follows:

Election—policy—premium.

"92-1103. *Manner of electing* — **contract or policy of insurance — payment of premium.** *The industrial accident board shall prescribe the procedure by which employers may elect to be bound by compensation plan No. 3, the effective time of such election and the manner in which such election is terminated for reasons other than default in payment of premiums.* Every employer electing to be bound by compensation plan No. 3 shall receive from the industrial accident board a contract or policy of insurance in a form approved by the board. The premium thereon shall be paid by the employer, to the industrial accident board at such times as the board shall prescribe and shall be paid over by the board to the state treasurer to the credit of the industrial insurance account in the agency fund."

Repealing clause.

Section 3. Sections 92-1106 and 92-1107, R.C.M. 1947, are repealed.

Amending clause.

Section 4. Section 92-1108, R.C.M. 1947, is amended to read as follows:

Default—rates advanced 25%.

"92-1108. **In case of default, rates to be advanced twenty-five percent** *(25%).* Any employer who is in default in the observance of any order of the board, issued

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pursuant to the provisions of sections 92-1101 to *92-1105* inclusive, shall, in addition to any other penalty provided by this act, be charged an advance of twenty-five per centum *(25%)* over the established rate, and such advanced rate shall continue and be in force until such employer shall have ceased to be in such default."

Approved March 5, 1969.

CHAPTER 234

An Act Amending Section 92-111, R.C.M. 1947, to Permit the Industrial Accident Board to Rent Suitable Quarters.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-111, R.C.M. 1947, is amended to read as follows: Amending clause.

"92-111. **Office and furnishings—quarters.** The board shall keep its principal office in the capital of the state. *It may rent or lease quarters for the conduct of its administrative duties."* Office and furnishings—quarters.

Approved March 5, 1969.

CHAPTER 235

An Act to Amend Section 75-4426, R.C.M. 1947, to Provide That the Board of Trustees of a Community College Shall Have the Power to Borrow Money From Agencies of the Federal Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-4426, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-4426. **Building construction and repairs — acquisition of land — tax levy — federal and state aid.** The board of trustees of any community college district is hereby vested with the power and authority to build, enlarge, alter, repair or acquire by purchase school buildings and dormitories; furnishing and equipping the same, and Building construction and repairs—acquisition of land—tax levy—federal and state aid.

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purchasing the necessary lands therefor and the board of trustees of any community college district is hereby authorized to levy an additional tax not exceeding ten (10) mills on the dollar of the taxable value of all taxable property within the district for these purposes; provided they shall first be authorized to do so by an election held of the qualified electors of the district who are taxpayers upon property within the community college district, called, noticed and conducted in so far as applicable by sections 75-4609 and 75-4610 of the Revised Codes of Montana, 1947, as amended. *The board of trustees of any community college district is further vested with the power and authority to borrow monies from the United States or any of its agencies for the purpose of this section.* The board of trustees of any community college district is hereby authorized to accept funds from the United States or the state of Montana, their instrumentalities or any of their agencies in aid of any one or more of such purposes or in maintaining and operating the college."

Approved March 5, 1969.

CHAPTER NO. 236

An Act to Amend Initiative Measure No. 54 Adopted by the Voters of Montana at the Election Held November 7, 1950, to Extend to June 30, 1969, the Time Limit Within Which Submission of Applications for Payment of the World War I Honorarium Must Be Made.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 1, chapter 112, Laws of 1967, is amended to read as follows:

"Section 1. Section 9, chapter 270, Laws of 1963, is amended to read as follows:

Claims for benefits.

'Section 9. Claims for benefits under the provisions of subdivision (1) of section 2, and/or under section 3 of said Initiative No. 54, as by this amendatory act amended, may be filed at any time before the expiration of *five (5)* years *and six (6) months* from and after the January first next following the date of the passage and approval of this act, provided, however, that said period

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of *five (5)* years *and six (6) months* shall be extended for a period equal to the period, or the aggregate of the periods, of the time during which the administration of this act shall be suspended, by reason of litigation or from any other cause.'"

Approved: March 5, 1969.

CHAPTER NO. 237

An Act Adopting the Uniform Reciprocal Enforcement of Support Act as Revised by the National Conference of Commissioners on Uniform State Laws in 1968; Providing Additional Remedies for Enforcement of Duties of Support; Providing for Criminal Enforcement by Extradition; Providing for Civil Enforcement Where Parties Reside in Different States or in Different Counties of Montana; Providing for Registration and Enforcement of Foreign Support Orders and Support Orders issued in Different Counties of Montana; Providing for the Resolution of Paternity and Visitation Rights if Contested, and for Appeals; and Repealing Sections 93-2601-1 Through 93-2601-40, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Part I. General provisions.

Section 1. **Purposes.** The purposes of this act are to improve and extend by reciprocal legislation the enforcement of duties of support. Purposes.

Section 2. **Definitions.** (a) "Court" means the district court of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law. "Court."

(b) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid. "Duty of support."

(c) "Governor" includes any person performing the "Governor."

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functions of governor or the executive authority of any state covered by this act.

"Initiating state." "Initiating court." (d) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

"Law." (e) "Law" includes both common and statutory law.

"Obligee." (f) "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

"Obligor." (g) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

"Prosecuting attorney." (h) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

"Register." (i) "Register" means to file in the Registry of Foreign Support Orders.

"Registering court." (j) "Registering court" means any court of this state in which a support order of a rendering state is registered.

"Rendering state." (k) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

"Responding state." (l) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

"State." (m) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction

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in which this or a substantially similar reciprocal law is in effect.

(n) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered. "Support order."

Section 3. Remedies additional to those now existing. The remedies herein provided are in addition to and not in substitution for any other remedies. Remedies additional.

Section 4. **Extent of duties of support.** Duties of support arising under the law of this state, when applicable under section 7, bind the obligor present in this state regardless of the presence or residence of the obligee. Duties of support.

Part II. **Criminal enforcement.**

Section 5. **Interstate rendition.** The governor of this state may Interstate rendition.

(1) demand of the governor of another state the surrender of a person found in that state who is charged criminally in this state with failing to provide for the support of any person; or

(2) surrender on demand by the governor of another state a person found in this state who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this act apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state.

Section 6. **Conditions of interstate rendition.** (a) Before making the demand upon the governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of a person, the governor of this state may require any prose- Conditions of interstate rendition.

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cuting attorney of this state to satisfy him that at least sixty (60) days prior thereto the obligee initiated proceedings for support under this act or that any proceeding would be of no avail.

(b) If, under a substantially similar act, the governor of another state makes a demand upon the governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the governor may require any prosecuting attorney to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective. If it appears to the governor that a proceeding would be effective but has not been initiated he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If proceedings have been initiated and the person demanded has prevailed therein the governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the governor may decline to honor the demand if the person demanded is complying with the support order.

Part III. **Civil enforcement.**

Choice of law.

Section 7. **Choice of law.** Duties of support applicable under this act are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

Remedies of agency furnishing support.

Section 8. **Remedies of state or political subdivision furnishing support.** If a state or a political subdivision furnishes support to an individual obligee it has the same right to initiate a proceeding under this act as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

How duties of support enforced.

Section 9. **How duties of support enforced.** All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this act including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as

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husband and wife or parent and child is not available to the obligor.

Jurisdiction.

Section 10. **Jurisdiction.** Jurisdiction of any proceeding under this act is vested in the district court.

Petition—venue.

Section 11. **Contents and filing of petition for support—venue.** (a) The petition shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. The obligee may include in or attach to the petition any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his social security number.

(b) The petition may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the petition on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

Officials to represent obligee.

Section 12. **Officials to represent obligee.** If this state is acting as an initiating state the prosecuting attorney upon the request of the court, a state department of welfare, a county commissioner, or other local welfare officer, shall represent the obligee in any proceeding under this act. If the prosecuting attorney neglects or refuses to represent the obligee the attorney general may order him to comply with the request of the court or may undertake the representation.

Petition for a minor.

Section 13. **Petition for a minor.** A petition on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem.

Duty of initiating court.

Section 14. **Duty of initiating court.** If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty

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of support and that a court of the responding state may obtain jurisdiction of the obligor or his property it shall so certify and cause three (3) copies of the petition and its certificate and one (1) copy of this act to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

Costs and fees.

Section 15. **Costs and fees.** An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the state or political subdivision thereof. These costs or fees do not have priority over amounts due to the obligee.

Jurisdiction by arrest.

Section 16. **Jurisdiction by arrest.** If the court of this state believes that the obligor may flee it may

(1) as an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or

(2) as a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his appearance at the hearing.

State information agency.

Section 17. **State information agency.** (a) The state department of public welfare is designated as the state information agency under this act, it shall

(1) compile a list of the courts and their addresses

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in this state having jurisdiction under this act and transmit it to the state information agency of every other state which has adopted this or a substantially similar act. Upon the adjournment of each session of the legislature the agency shall distribute copies of any amendments to the act and a statement of their effective date to all other state information agencies;

(2) maintain a register of lists of courts received from other states and transmit copies thereof promptly to every court in this state having jurisdiction under this act; and

(3) forward to the court in this state which has jurisdiction over the obligor or his property petitions, certificates and copies of the act it receives from courts or information agencies of other states.

(b) If the state information agency does not know the location of the obligor or his property in the state and no state location service is available it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the social security administration as permitted by the Social Security Act as amended.

(c) After the deposit of three (3) copies of the petition and certificate and one (1) copy of the act of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently it shall inform the attorney general who may undertake the representation.

Duty of the court and officials of this state as responding state.

Section 18. **Duty of the court and officials of this state as responding state.** (a) After the responding court receives copies of the petition, certificate and act from the initiating court the clerk of the court shall docket the case and notify the prosecuting attorney of his action.

(b) The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary in ac-

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cordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or his property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

(c) If the prosecuting attorney neglects or refuses to represent the obligee the attorney general may order him to comply with the request of the court or may undertake the representation.

Further duties of court and officials.

Section 19. **Further duties of court and officials in responding state.** (a) The prosecuting attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of inaccuracies in the petition or otherwise the court cannot obtain jurisdiction the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the initiating court.

(b) If the obligor or his property is not found in the county, and the prosecuting attorney discovers that the obligor or his property may be found in another county of this state or in another state he shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this act apply to the recipient of the documents so forwarded. If the clerk of a court of this state forwards documents to another court he shall forthwith notify the initiating court.

(c) If the prosecuting attorney has no information as to the location of the obligor or his property he shall so inform the initiating court.

Hearing and continuance.

Section 20. **Hearing and continuance.** If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense the court, upon request of either party, continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the court. The

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court may designate the judge of the initiating court as a person before whom a deposition may be taken.

Immunity from criminal prosecution.

Section 21. **Immunity from criminal prosecution.** If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

Evidence of husband and wife.

Section 22. **Evidence of husband and wife.** Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

Rules of evidence.

Section 23. **Rules of evidence.** In any hearing for the civil enforcement of this act the court is governed by the rules of evidence applicable in a civil court action in the district court. If the action is based on a support order issued by another court a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity (section 27) or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

Order of support.

Section 24. **Order of support.** If the responding court finds a duty of support it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this act shall require that payments be made to the clerk of the court of the responding state. The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney

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of any county in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

Responding court to transmit order to initiating court.

Section 25. **Responding court to transmit copies to initiating court.** The responding court shall cause a copy of all support orders to be sent to the initiating court.

Additional powers of responding court.

Section 26. **Additional powers of responding court.** In addition the the foregoing powers a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

(1) require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;

(2) require the obligor to report personally and to make payments at specified intervals to the clerk, and

(3) punish under the power of contempt the obligor who violates any order of the court.

Paternity.

Section 27. **Paternity.** If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated.

Additional duties of responding court.

Section 28. **Additional duties of responding court.** A responding court has the following duties which may be carried out through the clerk of the court:

(1) to transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and

(2) to furnish to the initiating court upon request a certified statement of all payments made by the obligor.

Additional duty of initiating court.

Section 29. **Additional duty of initiating court.** An initiating court shall receive and disburse forthwith all

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payments made by the obligor or sent by the responding court. This duty may be carried out through the clerk of the court.

Proceedings not to be stayed.

Section 30. **Proceedings not to be stayed.** A responding court shall not stay the proceeding or refuse a hearing under this act because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the petition being heard the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

Application of payments.

Section 31. **Application of payments.** A support order made by a court of this state pursuant to this act does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state.

Effect of participation in proceeding.

Section 32. **Effect of participation in proceeding.** Participation in any proceeding under this act does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.

Intrastate application.

Section 33. **Intrastate application.** This act applies if both the obligee and the obligor are in this state but in different counties. If the court of the county in which the petition is filed finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county in this state may obtain jurisdiction over the

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obligor or his property, the clerk of the court shall send the petition and a certification of the findings to the court of the county in which the obligor or his property is found. The clerk of the court of the county receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this state as a responding state.

Appeals.

Section 34. **Appeals.** If the attorney general is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may

(a) perfect an appeal to the proper appellate court if the support order was issued by a court of this state, or

(b) if the support order was issued in another state, cause the appeal to be taken in the other state. In either case expenses of appeal may be paid on his order from funds appropriated for his office.

Part IV. **Registration of foreign support orders.**

Additional remedies.

Section 35. **Additional remedies.** If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

Registration.

Section 36. **Registration.** The obligee may register the foreign support order in a court of this state in the manner, with the effect, and for the purposes herein provided.

Registry of orders.

Section 37. **Registry of foreign support orders.** The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall file foreign support orders.

Official to represent obligee.

Section 38. **Official to represent obligee.** If this state is acting either as a rendering or a registering state the prosecuting attorney upon the request of the court, a state department of welfare, a county commissioner, or other local welfare official shall represent the obligee in proceeding under this part.

If the prosecuting attorney neglects or refuses to represent the obligee, the attorney general may order him to

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comply with the request of the court or may undertake the representation.

Registration procedure—notice.

Section 39. **Registration procedure—notice.** (a) An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court (1) three (3) certified copies of the order with all modifications thereof, (2) one (1) copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this act.

(b) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. He shall also docket the case and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.

Effect of registration—enforcement procedure.

Section 40. **Effect of registration—enforcement procedure.**

(a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.

(b) The obligor has twenty (20) days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is confirmed.

(c) At the hearing to enforce the registered support

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order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

Uniformity of interpretation.

Section 41. **Uniformity of interpretation.** This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Short title.

Section 42. **Short title.** This act may be cited as the Revised Uniform Reciprocal Enforcement of Support Act (1968).

Severability clause.

Section 43. **Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Repealing clause.

Section 44. **Repeal.** Sections 93-2601-1 through 93-2601-40, R.C.M. 1947, are repealed.

Approved: March 5, 1969.

CHAPTER NO. 238

An Act to Provide for the Issue and Sale by the State Board of Examiners of Bonds in a Sum Not Exceeding One Million Five Hundred Thousand Dollars ($1,500,000) for the Purpose of Acquiring a Necessary Site for and Erecting a Warehouse and Administration Building for the Montana Liquor Control Board; Providing That Said Bonds Shall Be Payable

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Solely From Net Proceeds From the Operation of State Liquor Stores; Pledging and Appropriating a Portion of Such Net Proceeds to a Special Sinking Fund Account; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Board of examiners authorized to issue bonds to acquire site and erect warehouse and administration building for liquor control board.

Section 1. The state board of examiners of the state of Montana is hereby authorized to issue and sell bonds for the purpose of acquiring a suitable site for, and erecting, a warehouse and administration building for the Montana liquor control board at or near Helena, Montana, to replace the present warehouse and administration building which is hereby declared to be inadequate for such purpose. All bonds issued hereunder shall contain a statement that they are not and shall never become a debt or liability of the state of Montana within the meaning of any constitutional or statutory limitation or provision, and that no ad valorem tax may be levied upon property within the state of Montana to pay principal thereof or interest thereon, but that the bonds and interest are payable solely from that portion of the net proceeds from the operation of state liquor stores pledged and appropriated to the sinking fund account as provided in this act, and shall contain the pledge of the state of Montana to continue to apply such net proceeds to the retirement of said bonds and the payment of interest thereon.

Authority of state controller.

Section 2. Upon the sale of the bonds, the state controller, acting under the supervision and with the approval of the board of examiners, as provided in chapter 33 of Title 82, R.C.M. 1947, is hereby empowered and directed to acquire a site for and to proceed with the erection of a building of suitable construction and design for use as a warehouse and administration building for the Montana liquor control board.

Bonds authorized.

Section 3. The aggregate amount of bonds authorized by this act for the purpose herein expressed, shall not exceed the sum of one million five hundred thousand dollars ($1,500,000).

Issuance of bonds.

Section 4. Such bonds shall be issued by the board, upon request of the controller, in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange and for the issuance of notes

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in anticipation of the execution and delivery of definitive bonds, bearing interest at such rate or rates not exceeding five and one-quarter per centum (5¼%) per annum, maturing at such times not exceeding thirty (30) years from date of issue, subject to redemption at such earlier times and prices and upon such notice, and payable at the office of such fiscal agent of the state of Montana, as the board shall determine, subject to the limitations contained herein.

Form of bonds.

Section 5. In all other respects, the board is authorized to prescribe the form and terms of the bonds, and shall do whatever is lawful and necessary for their issuance and payment. The board is hereby authorized to employ a fiscal agent to assist it in the performance of its duties hereunder. Such bonds and any interest coupons appurtenant thereto shall be signed by the members of the state board of examiners, and the bonds shall be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

Disposition of bond proceeds.

Section 6. All proceeds of bonds issued hereunder shall be deposited in a separate subfund which is created within the bond and insurance clearance fund established by section 79-410, R.C.M. 1947, and shall be segregated by the treasurer from all other money in that or any other fund in the state treasury and used only to pay costs of acquiring land for and erecting the building herein referred to, upon order of the controller acting within the limits of the authority conferred upon him by the legislative assembly.

Pledge of proceeds to sinking fund account.

Section 7. (a) The state hereby pledges and appropriates and directs to be credited as received to the sinking fund account, as herein defined, that portion of the net proceeds from the operation of state liquor stores as may from time to time be needed to comply with the principal and interest and reserve requirements stated in subsection (b) of this section. The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received as net proceeds from the operation of state liquor stores. Nothing herein shall prevent the future authorization by the leg-

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islative assembly of additional bonds constituting a first and prior charge upon all money received as net proceeds from the operation of state liquor stores, on a parity as to principal and interest with bonds herein authorized, if the average annual net proceeds received during the three fiscal years immediately preceding such issuance have exceeded one hundred fifty per centum (150%) of the maximum amount of principal and interest to become due in any subsequent fiscal year on all bonds herein authorized and on the additional series so issued. The term "sinking fund account," as used herein, means a separate subfund which is created within the sinking fund established by section 79-410, R.C.M. 1947, and shall be segregated by the treasurer from all other money in that or any other fund in the treasury and used only to pay such bonds and interest thereon when due, so long as any such bonds or interest remain unpaid. The term "net proceeds", as used herein, means all moneys received from the sale of liquor at the state liquor stores in each fiscal year, less the cost of merchandise and all other items of expense which, in accordance with accepted accounting practice and as established by financial reports made by the liquor control board to the state examiner under the provisions of sections 4-227 and 4-230, R.C.M. 1947, constitute normal, reasonable and current costs of the operation and maintenance of all state liquor stores and other facilities under the jurisdiction of the board and expenses of the board and its staff in the establishment and maintenance of state liquor stores and in the administration of the state liquor control act.

(b) Money in the sinking fund account shall be used first, to pay interest and principal when due on the bonds issued pursuant to this act; second, to accumulate a reserve in the amount required below, for the further security of such payments; and third, to maintain this reserve in an amount at least equal, after each interest and principal payment, to the maximum amount of interest and principal which will become due on all such bonds which are then outstanding in any subsequent fiscal year.

(c) Money at any time received in the sinking fund account in excess of the principal, interest and reserve requirements stated in subsection (b) shall be transferred by the treasurer to the general fund. If the balance at any time on hand in the sinking fund account is not suf-

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ficient for compliance with subsection (b), the treasurer shall credit to said account an amount sufficient to restore said balance from the next receipts of net proceeds from the operation of state liquor stores.

(d) If so stated in bonds issued hereunder, the purchasers and holders thereof may by their purchase and retention of the same waive in whole or in part the security otherwise made available for such bonds by any provision of this act.

Effective immediately.

Section 8. This act shall be in force and effect from and after its passage and approval.

Approved: March 5, 1969.

CHAPTER NO. 239

An Act to Amend Section 5-527, R.C.M. 1947, Relating to Interest That May Be Charged by Banks and Providing for Charges That May Be Made by Banks With Respect to Installment Loans.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5-527, R.C.M. 1947, is amended to read as follows:

Interest not to exceed lawful rate—installment loan rates.

"5-527. **Interest not to exceed lawful rate**—*permissible charges on installment loans.* No bank shall demand or receive for loans or discounts, a rate of interest exceeding that allowed by law, excepting that it shall be lawful for any bank to receive interest in advance according to the ordinary usages of banking institutions. *On loans to be repaid in one or more deferred installments a bank may charge not to exceed the following schedule: On so much of the principal balance as does not exceed three hundred dollars ($300), eleven dollars ($11) per one hundred dollars ($100) per year; if the principal balance exceeds three hundred dollars ($300), but is less than one thousand dollars ($1000), nine dollars ($9) per one hundred dollars ($100) per year on that portion over three hundred dollars ($300); if the principal balance exceeds one thousand dollars ($1,000), seven dollars ($7) per one hundred dollars ($100) per year on that portion over one thousand dollars ($1,000). Such charges shall be*

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computed on the principal balance on contracts payable in successive monthly payments substantially equal in amount from the date of the contract until the maturity of the final installment, notwithstanding that the total balance thereof is required to be paid in installments. A minimum charge of twenty dollars ($20) may be made with respect to any installment loan made by a bank. When an installment loan contract provides for payment other than in equal successive monthly installments the charge may be at a rate which will provide the same yield as is permitted monthly payment contracts having due regard for the schedule of payments in the contract."

Approved: March 5, 1969.

CHAPTER NO. 240

An Act Amending Section 80-1603, R.C.M. 1947, Relating to Assessment and Collection of Per Diem Charges for Residents of Institutions Subject to Per Diem Charges; Providing for an Investigation by the Department of Institutions; Providing for Cooperation of Other Agencies, State and Private, in Such Investigations; Empowering the Department to Administer Oaths and Issue Subpoenas; Providing the State of Montana a Claim Against the Estate of a Resident or Responsible Person, for Per Diem Charges; Providing the Claim of the State Shall Not Have Priority Against the Necessary Amount to Support Surviving Children; Providing for Collection of Such Claim by the Attorney General of the State of Montana; Providing for Appeals.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 80-1603, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"80-1603. **Monthly assessment of charges—Indians—annual computation of rate—application to pay less—investigation and review—deposit of receipts.** Monthly assessment of charges—Indians—annual computation of rate—application to pay less—investigation and review—deposit of receipts.

(1) *The department shall assess monthly against each resident or responsible person, the full per diem charge, a proportionate share of the per diem charge, or no per*

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diem charge, based upon financial information given to the department during its investigation. The per diem shall be computed on July 1 of each year by the director of institutions.

(2) *For the purpose of such investigations, every agency and department of the state is required to render all reasonable assistance to the department of institutions in obtaining all information necessary for the proper implementation of the purposes of such an investigation. The director and any representative of the department duly authorized by the director, shall have the power to administer oaths, take testimony, subpoena and compel the attendance of witnesses and the production of books, papers, records and documents deemed material appurtenant in connection with the duty of securing payments for support as provided by this act. Any person failing to obey such subpoena, upon petition of the director or representative of the department, to any judge of the district court of the state of Montana, may be ordered by the judge to appear and show cause for his disobedience of the subpoena. The judge, after hearing, may order that the subpoena be obeyed, or if it is made to appear to the judge that the subpoena was for any reason inappropriately issued, may dismiss the petition. Any person who fails to obey the subpoena when ordered to do so by the judge may be punished as for contempt of court on application of the district court by the director or his representative.*

(3) The state of Montana shall have a claim against the estate of any patient and against the estate of any responsible person, for any amount due and owing to the state of Montana at the date of death or such resident or such person. Such claim against the estate of any responsible person shall not have priority against such estate for the amount necessary to rear and educate surviving children of the responsible person.

(4) The attorney general shall collect any claim which the state may have hereunder against such estate. No such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse or the resident or responsible person.

(5) If a resident or responsible person disagrees with the determination of the department as to the ability of

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such resident or responsible person to pay all or any part of the per diem charge, an appeal may be filed within thirty (30) days of such determination with the state board of institutions. If such resident thereafter disagrees with the determination of the appeal by the state board of institutions, an appeal may be filed and taken to any court of record in Montana having jurisdiction of the resident or responsible person liable for such payment.

(6) The department may, at any time, review and change any determinaiton for per diem payments. In any case, however, no resident of an institution shall be released by reason of the nonpayment of the per diem, if in the judgment of the superintendent of the institution at which he is a resident, such release is medically inadvisable.

(7) All per diem payments received by the department shall be deposited in the state treasury to the credit of the general fund.''

Approved: March 5, 1969.

CHAPTER NO. 241

An Act Amending Section 25-227, R.C.M. 1947, by Increasing Fees for Board of Prisoners to Two Dollars and Twenty-Five Cents ($2.25) for the First Category and Increasing Fifty Cents ($.50) for Each Successive Category.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-227, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"25-227. **Fees for board of prisoners.** The fees allowed sheriffs of the several counties of the state for the board of prisoners confined in jail under their charge shall be at the rate of *two dollars and twenty-five cents ($2.25)* per day for each of said prisoners, when the number of prisoners shall be twenty (20) or less each day. When the number of prisoners per day shall exceed twenty (20) and be less than thirty (30) then at the rate of *two dollars ($2.00)* per day for each of said prison- **Fees for board of prisoners.**

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ers in excess of twenty (20) per day. When the number of prisoners per day shall exceed twenty-nine (29) and be less than forty (40), then at the rate of *one dollar and seventy-five cents ($1.75)* per day for each and all of said prisoners in excess of twenty-nine (29); and when the number of prisoners per day shall exceed thirty-nine (39), then at the rate of *one dollar and fifty cents ($1.50)* per day for each of said prisoners in excess of thirty-nine (39); provided the term 'per day' shall mean a twenty-four (24) hour period in which at least one substantial meal has been served to such prisoner."

Approved: March 5, 1969.

CHAPTER NO. 242

An Act Authorizing School Boards to Make and Provide an Appropriation in School Budgets for Payment to a Reserve Fund for Public Employees' Retirement, Not to Exceed Thirty-Five (35) Percent of the Total Amount Budgeted Annually for the Retirement Fund, to Be Used for Payment of Public Employees' Retirement Expenses Incurred at the Beginning of Each School Year.

Be it enacted by the Legislative Assembly of the State of Montana:

School budget payment to reserve fund for public employees' retirement system.

Section 1. The board of trustees of school districts and county high schools may in their respective budgets make and provide an appropriation for payments to a reserve fund for public employees' retirement which reserve fund shall not exceed thirty-five percent (35%) of the total amount budgeted annually for the retirement fund.

Section 2. The reserve fund may be used for the purpose of paying public employees' retirement expenses incurred at the beginning of each school year when funds for this purpose are not available as budgeted. The funds shall not be used for any other purpose.

Approved: March 5, 1969.

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CHAPTER NO. 243

An Act to Amend Section 84-1509, R.C.M. 1947, to Require That Only Affiliated Corporations Whose Operations Constitute a Single Unitary Business Operation May File a Consolidated Corporation Income Tax Return; and Further Require That to Request Use of a Consolidated Return at Least Eighty Percent of All Classes of Stock of Each Corporation Must Be Owned Directly or Indirectly by One or More Members of the Affiliated Group.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1509, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1509. **Consolidated returns—computation and procedure on.** Consolidated returns—computation and procedure on.

(1) Corporations which are affiliated may not file a consolidated return unless at least eighty percent (80%) of all classes of stock of each corporation involved is owned directly or indirectly by one (1) or more members of the affiliated group.

(2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a unitary business and permission to file a consolidated return is given by the state board of equalization. For purposes of this section, a 'unitary business operation' means one in which the business operations conducted by the corporations in the affiliated group are interrelated or interdependent to the extent that the net income of one corporation cannot reasonably be determined without reference to the operations conducted by the other corporations.

(3) If the conditions of subsections (1) and (2) of this section are met, the state board of equalization may require corporations to file a consolidated return when the board considers a consolidated return necessary.

(4) Any corporation liable to report under this act and owning, or controlling, either directly or indirectly, *at least eighty percent (80%) of all classes of stock of each corporation involved,* may be required to make a consolidated report showing the combined net income such assets

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of the corporation as are required for the purposes of this act, and such other information as the state board of equalization may require, but excluding intercorporate stockholdings and intercorporate accounts. Any corporation liable to report under this act and owned or controlled, either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, such assets of the corporation as are required for the purposes of this act, and such other information as the state board of equalization may require, but excluding intercorporate stockholdings and intercorporate accounts. In case it shall appear to the state board of equalization that any arrangement exists in such a manner as to improperly reflect the business done, the segregable assets or the entire net income earned from business done in this state, the state board of equalization is authorized and empowered, in such manner as it may determine, to equitably adjust the tax."

Approved: March 6, 1969.

CHAPTER NO. 244

An Act to Amend Section 71-230, R.C.M. 1947, as Amended, to Provide for Assistance Payments to Another Person Who Is Found Interested in or Concerned With the Welfare of Such Old Age Assistance, Aid to Needy Blind, Aid to the Permanently and Totally Disabled Recipients, Who Because of Physical or Mental Condition Are Unable to Manage Their Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-230, R.C.M. 1947, as amended is amended to read as follows:

Method of issuing assistance grants—reimbursement.

"71-230. **Method of issuing assistance grants—reimbursement.** (a) Checks in payment of public assistance, as provided for in each part of this act, with the exception of general relief, shall be issued by the state department upon approved certificates of award and reports of changes of such eligible grantees as are forwarded by the county department to the state department and all such checks will be mailed to the individual recipient or

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the appropriate vendor. The checks in payment of public assistance shall be issued in the full approved amount for each eligible approved grantee and the original monthly payment shall be from the state public welfare accounts. All public assistance checks shall represent cash on demand at full par value to the recipient and vendor.

(b) *Whenever the state department of public welfare, acting pursuant to standards established by said department, shall determine that any otherwise eligible recipient of old age assistance, aid to the needy blind, aid to the permanently and totally disabled, has, by reason of any physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare, the department may under standards established under the state plan, make the public assistance payment on behalf of such recipient to another person found by the department to be interested in or concerned with the welfare of such needy individual. Before such payments may be paid to such other person, such person shall give a bond, with adequate corporate surety and in form to be approved by the state department of public welfare, running in favor of the needy individual and the state of Montana, conditioned upon the faithful use by such other person of the funds for the welfare of the said needy individual. Such bond shall be in an amount equal to six (6) times the amount of the monthly payment involved.*

(c) On or before the twentieth of each month the state department will present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county to recipients during the month and for vendor medical payments made on behalf of recipients in the previous month. The county department must make such reimbursement to the state department within twenty (20) days after such claim is presented."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved: March 6, 1969.

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CHAPTER NO. 245

An Act Relating to Termination of Employment Providing That Garnishment or Attachment of Wages May not be Grounds for Termination of Employment; Amending Section 41-304, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

No discharge because of garnishment against wages.

Section 1. No employer shall discharge or lay off an employee because of attachment or garnishment served on the employer against the wages of the employee.

Amending clause.

Section 2. Section 41-304, R.C.M. 1947, is amended to read as follows:

Termination at will.

"41-304. **Termination at will.** An employment having no specified term may be terminated at the will of either party, on notice to the other, except where otherwise provided by sections 41-101 to 41-407 and 2-109 to 2-112 and 2-401 to 2-405, *and except as provided in section 1 of this act.*"

Approved: March 6, 1969.

CHAPTER NO. 246

An Act Which Empowers the State Board of Equalization to Require Immediate Payment of a Tax or Deficiency Due Under any Corporation License Tax Statute of Montana if the Board Finds That the Collection of the Tax or Deficiency will be Jeopardized in Whole or in Part by Delay.

Be it enacted by the Legislative Assembly of the State of Montana:

Immediate payment of tax if delay will jeopardize collection.

Section 1. If the state board of equalization finds that the assessment or collection of the tax or a deficiency in tax due under any corporation license tax statute of Montana for any taxable period will be jeopardized in whole or in part by delay, it may mail notice of its findings to the taxpayer together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the board may declare the taxable period of the taxpayer immediately

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terminated, and shall mail or issue notice of its findings to the taxpayer together with a demand for immediate payment of the tax based on the period declared terminated. A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once.

Approved: March 6, 1969.

CHAPTER NO. 247

An Act Amending Section 32-21-130, R.C.M. 1947, Pertaining to Lighting Equipment on Certain Vehicles; Requiring That Slow-Moving Vehicles or Equipment, any Animal-Drawn Vehicle, or any Other Machinery, Designed for use at Speeds of Less Than Twenty-five (25) Miles Per Hour, Including Road Construction or Maintenance Machinery, Shall Have Displayed Thereon a Reflectorized Emblem; Describing Said Emblem; Providing That Slow-Moving Vehicles Should Permit Overtaking Vehicles to Pass; Providing for Penalty for Violations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-21-130, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"32-21-130. **Lamps on other vehicles and equipment;** *emblem to be used on certain slow-moving vehicles; slow-moving vehicles to permit overtaking vehicles to pass;* **Lamps and emblems on vehicles.**

(a) Every vehicle, including animal-drawn vehicles and vehicles referred to in section 32-21-114 (c), not specifically required by the provisions of sections 32-21-114 to 32-21-153 to be equipped with lamps or other lighting devices, shall at all times specified in section 32-21-115 be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of said vehicle, and shall also be equipped with two (2) lamps displaying red light visible from a distance of not less than five hundred (500) feet to the rear of said vehicle, or as an alternative, one (1) lamp displaying a red light visible from a distance of not less than five hundred (500) feet to the rear and

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two (2) red reflectors visible for distances of one hundred (100) to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

(b) It shall be unlawful, after January 1, 1970, for any person to operate on the roadway of any state highway, farm, rural or county roads and city streets of this state any slow-moving vehicle or equipment, any animal-drawn vehicle, or any other machinery designed for use at speeds less than twenty-five (25) miles per hour, including all road construction or maintenance machinery, except when engaged in actual construction or maintenance work either guarded by a flagman or clearly visible warning signs, which normally travels or is normally used at a speed of less than twenty-five (25) miles per hour unless there is displayed on the rear thereof an emblem as described in and displayed as provided in subsection (c) of this section. The requirement of such emblem shall be in addition to any lighting devices required by law.

(c) The emblem required by subsection (b) of this section shall be of substantial construction, and shall be a based-down equilateral triangle of fluorescent yellow-orange film or equivalent quality paint with a base of fourteen (14) inches and an altitude of twelve (12) inches. Such triangle shall be bordered with reflective red strips having a minimum width of one and three-fourths (1 3/4) inches, with the vertices of the overall triangle truncated such that the remaining altitude shall be a minimum of fourteen (14) inches. Such emblem shall be mounted on the rear of such vehicle near the horizontal geometric center of the vehicle at a height of three (3) to five (5) feet above the roadway, and shall be maintained in a clean, reflective condition.

(d) Any person violating the provisions of this section shall be subject to penalty as provided for in section 32-21-157.

(e) In addition to the foregoing requirements, on a highway that has only two lanes for traffic moving in opposite directions, when an overtaking vehicle being operated in conformity with section 32-2144, R.C.M. 1947, does not have a clear lane for passing as required by section 32-2155 and section 32-2156, R.C.M. 1947, the driver of a slower-moving, overtaken vehicle shall, at the first

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opportunity, whenever sufficient area for a safe turnout exists, move the overtaken vehicle off the main-traveled portion of the highway until the overtaking vehicle is safely clear of the overtaken vehicle."

Approved: March 6, 1969.

CHAPTER NO. 248

An Act to Amend Section 70-110, R.C.M. 1947, Relating to Failure of Public Utility to Make Reports or Permit Examinations, by Providing a Penalty for Violation of Safety Regulations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 70-110, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"70-110. **Failure of public utility to make reports or permit examinations**; *penalty for violation of safety regulations.* Any officer, agent, or person in charge of the books, accounts, records, and papers, or any of them, of any public utility, who shall refuse or fail, for a period of thirty days, to furnish the commission with any report required by the provisions of this act, and any officer, agent, or person in charge of any particular books, accounts, records, or papers relating to the business of such public utility, who shall refuse to permit any commissioner or other person duly authorized by the commission, to inspect such books, accounts, records, or papers on behalf of the commission, *and every firm, person, corporation or association violating any safety regulation of the commission,* shall be subject to a fine of not less than one hundred dollars nor more than *one thousand* dollars *($1,000),* such fine to be recovered in a civil action upon the complaint of the commission in any court of competent jurisdiction; and each day's refusal or failure on the part of such officer, agent, or person in charge, *and each day in which a violation of a safety regulation persists,* shall be deemed a separate offense, and be subject to the penalty herein prescribed." **Failure of public utility to make reports or permit examinations—penalty for violation of safety regulations.**

Section 2. This act is effective on its passage and approval. **Effective immediately.**

Approved: March 6, 1969.

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CHAPTER NO. 249

An Act to Amend Section 71-1524, R.C.M. 1947, as Amended, to Provide for the Recovery of Assistance Relating to Medical Aid for the Aged Paid Between July 1, 1965, and June 30, 1967; to Allow Recovery of Such Assistance Under the Same Terms and Conditions Now Allowing Recovery for Medical Assistance Received Under Sections 71-1511 Through 71-1524, Inclusive.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 71-1524, R.C.M. 1947, as amended, is amended to read as follows:

Exclusion of lien.

"71-1524. **Exclusion of lien.** No applicant hereunder shall be required to execute an agreement for lien on his real property. No lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual). There shall be no adjustment or recovery (except, in the case of an individual who was sixty-five (65) years of age or older when he received such assistance, from his estate, and then only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age twenty-one (21) or is blind or permanently and totally disabled) of any medical assistance correctly paid on behalf of such individual. Recoveries shall be prorated to the federal government and the county involved in the proportion to which each contributed to the medical assistance. *The provisions of this act are hereby extended to provide for the recovery of all medical assistance paid under sections 71-1511 through 71-1524 and likewise to all medical aid to the aged assistance paid by the state department during the period of time July 1, 1965, through June 30, 1967.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1969.

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CHAPTER NO. 250

An Act to Provide for Support, Coordination and Overall State Growth and Development of Post-Secondary Vocational-Technical Education; Repealing Sections 75-4301 through 75-4308.

Be it enacted by the Legislative Assembly of the State of Montana:

To provide for support, coordination and overall state growth and development of post-secondary vocational-technical education.

Section 1. This act will enable the development of a system of post-secondary vocational-technical education, adaptable to changing needs — controlled to prevent unnecessary duplication — and funded to insure growth and quality programming. It will place program and program budget approvel under the state board for vocational education and will stabilize expansion by leaving center designation by the state board dependent upon legislative direction.

"Post-secondary vocational-technical education."

Section 2. (1) The term "post-secondary vocational-technical education" means vocational or technical training or retraining which is given in schools or classes (including field or laboratory work and remedial or related academic and technical instruction incident thereto) under public supervision and control or under contract with the state board for vocational education or local school districts and is conducted as part of a program designed to prepare individuals (not regularly enrolled in an elementary or secondary school program) for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations or to prepare individuals for enrollment in advanced technical education prgrams, but excluding any program generally considered professional or which requires a baccalaureate or higher degree; and such term includes vocational guidance and counseling; instruction related to occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; job placement; travel of students and vocational education personnel while engaged in a training program; the acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment; and the rental of necessary emergency facilities but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land. Post-secondary vocational-

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technical education shall include the 13th and/or 14th year of any segment thereof and beyond but will not include work toward a baccalaureate degree.

"Post-secondary vocational-technical education student."

(2) A "post-secondary vocational-technical education student" is a person who has completed or left school, is at least 16 years of age, and is available for study in preparation for entering the labor market, for re-entering the labor market, for employment stability or advancement in employment.

"Post-secondary vocational-technical center."

(3) A "post-secondary vocational-technical center" is a school used principally for the provision of post-secondary vocational-technical education to persons who qualify as post-secondary vocational-technical education students. These centers are designated by the state board for vocational education upon direction by the legislature. All other public or private schools are hereby prohibited from using this title.

"Construction."

(4) "Construction." The term "construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and includes site grading, improvement, architectural fees, and purchase of initial equipment.

"Ancillary and supportive services."

(5) "Ancillary and supportive services" shall include services and activities to assure quality in all vocational education programs, such as teacher training and supervision, program evaluation, special demonstration and experimental programs, development of instructional materials and curriculum, and improved state administration and leadership, including periodic evaluation of state and local vocational education programs and services in light of information regarding current and projected manpower needs and job opportunities.

State plan.

Section 3. The state board for vocational education shall include in the state plan for vocational education provisions for the orderly development of post-secondary vocational-technical education programs.

Designation of education centers—application.

Section 4. Post-secondary vocational-technical education centers shall be designated by the state board for vocational education only upon direction by both houses of the state legislature. Applications for designation

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must be made in accordance with the following procedure:

(1) The governing board of any district high school, county high school, high school district, junior college or community college, or any unit of the Montana university system may submit an application, at such time and in such form as the state board for vocational education may require, requesting the legislature to direct the state board to designate an educational institution operated by the said governing board, to be a post-secondary vocational-technical education center, however, said application may not be submitted unless the county in which the proposed school district post-secondary vocational-technical education center is to be located has a taxable valuation equal to, or in excess of forty-five million dollars ($45,000,000).

(2) Applications are to be presented to the state superintendent of public instruction acting in his capacity as secretary of the state board for vocational education. The state superintendent shall review the application and present it to the state board along with his recommendations. The state board shall then examine the application and recommendation of the state superintendent and either adopt the recommendation of the superintendent or draft its own recommendation. The application, together with all recommendations shall be presented to the legislature by the state board at the next following legislative session.

Upon the date this act takes effect, the state board for vocational education is directed to designate a vocational-technical school to be operated by the respective boards of trustees of school district number 1 of Silver Bow County, school district number 1 of Lewis and Clark county, school district number 1 of Cascade county, Missoula County High School, and school district number 2 of Yellowstone county as post-secondary vocational-technical education centers.

Authority for program and budget approval.

Section 5. The local administration of all post-secondary vocational-technical education programs shall remain with the appropriate board of trustees or regents, but the state board shall retain sole authority for program and budget approval and shall develop and publish criteria for approval.

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Fees.

Section 6. Fees for the use of equipment and material used in training may be charged by the governing board of the post-secondary vocational-technical education center.

Admission.

Section 7. Any person who qualifies as a post-secondary vocational-technical student as defined in this act shall be admitted to the post-secondary vocational-tehnical training center of his or her choice except that students who qualify as residents of the state of Montana as hereafter defined shall be given priority in case enrollment limitations are caused by resource limitation.

Tuition—residents and nonresidents.

Section 8. Tuition shall not be charged to any resident of the state of Montana by the governing board of any post-secondary vocational-technical education center established pursuant to the provisions of this act. However, nonresidents may be charged tuition at rates to be determined by the state board for vocational education. For the purposes of this act the eligibility of a student for resident status shall be determined in the same manner as prescribed in sections 75-506.2 through 75-506.7, R.C.M. 1947, except that reference to "units of the Montana university system" shall, for the purposes of this act be considered to refer to post-secondary vocational-technical education centers and reference to "high school graduates" or "graduation from high school" shall be considered, for the purposes of this act, to refer to a person who has attended school or who was in attendance at a school.

Program and construction budgets.

Section 9. Post-secondary vocational-technical education centers are to submit program and construction budgets at such time and in such form as may be specified by the state board for approval by the said state board, but such budgets shall not be required to conform to the 180 day school calendar so that courses shorter or longer than full-year terms may be offered subject to approval by the said state board. The total of the approved budgets submitted by the post-secondary vocational-technical education centers together with the budget for the administration of the act by the state board shall constitute the total maximum approved budget which shall be financed as follows:

Financing.

(1) The primary source of financing is to be those

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funds specifically designated by legislative enactment or referendum by the people for financing post-secondary vocational-technical education in Montana. The state treasurer will distribute these funds on the basis of the budgets which constitute the total maximum approved budget for post-secondary vocational education programs and construction which have been approved by the state board.

Levy of tax.

(2) The county commissioners of each county in which a designated post-secondary vocational-technical education center is located is hereby authorized to levy a tax of not to exceed one (1) mill on the dollar of all taxable property, real and personal, within the county for support and maintenance of the post-secondary vocational-technical education center located within the said county.

Federal funding.

(3) Designated post-secondary vocational-technical education centers shall be eligible to receive such funds from the federal government as the state board for vocational education may provide pursuant to applicable acts of Congress.

Deficiency funding.

(4) If the aggregate fund provided by the above sources of revenue do not provide one hundred percent (100%) financing of the maximum approved budget hereinbefore specified, the remaining deficiency shall be financed from any state funds appropriated by the legislature for post-secondary vocational-technical education.

Approval of budgets.

Section 10. The state board for vocational-technical education shall determine the amount of funding available under this act. The state board may approve budgets for programs, construction, and ancillary services but the aggregate amount of the budgets so approved by the state board under this act shall not exceed the moneys determined to be available under section IX (1), (2), (3) and (4) of this act.

Treasurer designated custodian of funds.

Section 11. The treasurer of the state of Montana is hereby designated as the custodian of all federal or state funds designated, appropriated or apportioned for post-secondary vocational-technical education. At the direction of the state board for vocational education he shall disburse all moneys as appropriated. All funds received from any federal or state source for the establishment, support, maintenance or furtherance of post-secondary vo-

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cational education in the state shall be deposited with the state treasurer.

Governing of schools by act.

Section 12. Any school district, county high school or other institution and/or their governing boards which receives designation by the state board, upon direction by the legislature, as a post-secondary vocational-technical education center shall be governed exclusively by the provisions of the act with regard to the conduct of all post-secondary vocational-technical education programs. This act shall be authoritative in any circumstance in which it would appear to conflict with the provisions of any other chapter of the Revised Codes of Montana.

Effective—when.

Section 13. The provisions of this act shall take effect immediately following provision by the legislature or the people for the primary source of financial support specified in section IX (1) hereof, except that, from the date of the passage of this act, the state board for vocational education will not be authorized to designate additional institutions as post-secondary vocational-technical education centers pursuant to the provisions of section 2, chapter 254, Laws of 1967.

Repealing clause.

Section 14. Sections 75-4301 through 75-4308, R.C.M. 1947, are hereby repealed.

Approved March 6, 1969.

CHAPTER NO. 251

An Act to Repeal an Eight Percent (8%) Limitation on Costs for Administration, Dissemination of Public Information and Engineering Costs on Federal-Aid Highway Systems and to Repeal the Limitation of One Hundred Twenty Six Thousand Five Hundred Dollars ($126,500) for Public Information and to Repeal Section 32-2602, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Section 32-2602, R.C.M. 1947, is hereby repealed.

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Section 2. This act shall be in full force and effect from and after the date of passage and approval. Effective immediately.

Approved March 6, 1969

CHAPTER NO. 252

An Act Amending Section 16-1602, R.C.M. 1947, to Provide That Notice of the Resolution of Intention to Create a Special Improvement District Shall Be Mailed to Every Person, Firm or Corporation, or the Agent of Such Person, Firm or Corporation Having Real Property Within the Proposed District Listed in His Name Upon the Last Completed Assessment Roll for State, County and School District Taxes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1602, R.C.M. 1947, be and the same is hereby amended to read as follows: Amending clause.

"16-1602. **Resolution of intention — publication, mailing and notice.** Before creating any special improvement district for the purpose of making any of the improvements, acquiring any private property for any purpose authorized by this act, the board of county commissioners shall pass a resolution of intention so to do, which resolution shall designate the number of such district, describe the boundaries thereof, and state therein the general character of the improvements which are to be made, designate the name of the engineer who is to have charge of the work, and an approximate estimate of the cost thereof. Upon having passed such a resolution the board of county commissioners must give notice of the passage of such resolution of intention, which notice must be published for ten consecutive days in a daily newspaper or in two issues of a weekly newspaper published nearest to the place where such improvement district is to be created, and shall also cause to be posted within the boundaries of such special improvement district, a copy of such notice in three public places, and a copy of such notice shall be mailed to every person, firm or corporation, or the agent of such person, firm or corporation owning *real* property within the proposed district, *listed in his name upon the* Resolution of intention— publication, mailing and notice.

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last completed assessment roll for state, county and school district taxes, at his last known place of residence upon the same day such notice is first published or posted.

Such notice must describe the general character of the improvement, or improvements, so proposed to be made, or acquired by purchase, state the estimated cost thereof, and designate the time when, and the place where, the board of county commissioners will hear and pass upon all protests that may be made against the making or maintenance of such improvements, or the creation of such district, and the said notice shall refer to the resolution on file in the office of the county clerk for the description of the boundaries. If the proposal is for the purchase of an existing improvement, the notice shall state the exact purchase price of such existing improvement."

Effective immediately.

Section 2. This act shall be in full force and effect immediately upon the date of its passage and approval.

Approved March 6, 1969.

CHAPTER NO. 253

An Act to Amend Section 16-2808, R.C.M. 1947, Relating to Use of County Jails for Federal Prisoners, by Increasing the Fees Charged the Federal Government for Maintenance of Federal Prisoners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-2808, R.C.M. 1947, is amended to read as follows:

Provisions and agreement for use of county jails for federal prisoners.

"16-2808. **Provision and agreement for use of county jails for federal prisoners.** Provision and agreement for the use of said jails and the support and subsistence of such federal prisoners shall first be made by the United States through or by the proper officer or officers, with the board of county commissioners of the county wherein such prisoners are to be confined, such agreement to be in writing and contain a provision that the United States shall, upon claim presented for the county by its county clerk and recorder, pay into the county treasury of the county the sum of *five dollars ($5)* per day for each and

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every prisoner held in the county jail upon order or commitment of the United States government or any department or officer thereof. The sheriff of the county, who has custody of such prisoners, shall be paid by the county for their support and subsistence at the rate of *two dollars and fifty cents ($2.50)* per day, per prisoner."

Approved March 6, 1969.

CHAPTER NO. 254

An Act to Amend Section 11-2402, R.C.M. 1947, Subsection (a) by Including the Provision for Convention Facilities, Public Parking Facilities and Public Recreation Facilities Within the Definition of the Term "Undertaking."

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2402, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2402. **Definitions.** Whenver used in this act, unless a different meaning clearly appears from the context:

(a) The term 'undertaking' shall mean any one or a combination of the following: water, and sewerage systems, together with all parts thereof and appurtenances thereto including, but not limited to, supply and distribution systems, reservoirs, dams, sewage treatment, disposal works, public airport construction and public airport building, *convention facilities, public recreation facilities and public parking facilities;* or other revenue producing facilities and services authorized in these codes for cities and towns. "Undertaking."

(b) The term 'municipality' shall include any city or any town, however organized. "Municipality."

(c) The term 'governing body' shall include bodies and boards, by whatsoever names they may be known, having charge of finances and management of a municipality." "Governing body."

Approved: March 6, 1969.

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CHAPTER NO. 255

An Act Amending Section 69-1512, R.C.M. 1947, Relating to Increasing Fees for Inspection of Boilers, increasing the Pressure of Miniature Boilers, Adding Steam Traction and Operating Certificate, Increasing Fees for Examination of Applicants for Engineer's License, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-1512, R.C.M. 1947, is amended to read as follows:

Fees for inspection or examination.

"69-1512. **Fees for inspection or examination.** (1) At the time of inspection, the state inspector of boilers shall collect fees for the inspection in accordance with the following schedule:

(a) Boilers with pressure under thirty (30) pounds per square inch *$10*

(b) Boilers with pressure from thirty (30) pounds to one hundred (100) pounds per square inch *$15*

(c) Boilers with pressure from one hundred (100) pounds to three hundred (300) pounds per square inch *$20*

(d) Boilers with pressure over three hundred (300) pounds per square inch *$30*

(e) Miniature boilers with pressure not in excess of *one hundred (100)* pounds per square inch *$10*

(f) Steam traction ..... *$ 5*

(g) Operating certificate ..... *$ 4*

In case of the failure of the owner, manager or person in charge of any boiler to pay such fee upon the demand of the inspector, said inspector is authorized to seal the firebox of said boiler, and said seal shall not be removed until said fee is paid and the written order of the inspector authorizing its removal is received by said owner or manager. Any person who tampers with or removes such seal without such written order shall be deemed guilty of a misdemeanor and punished as provided by section 69-1507.

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(2) Whenever, upon request of the owner or operator of any boiler it is necessary for the inspector to make a special trip for the inspection of the boiler, the mileage and per diem allowed by law, in addition to the fees herein prescribed, shall be charged and collected by the inspector at the time such special inspection is made.

(3) Applicants for engineer's license shall pay fees according to the class of license for which application is made, as specified in the following schedule.

(a)	First class	*$30*
(b)	Second class	*$20*
(c)	Third class	*$12*
(d)	Low pressure	*$ 8*
(e)	Traction	*$12*
(f)	Renewal of license	*$ 4*
(g)	Replacement of lost certificate	*$ 2*

In case of the failure of any applicant to pass a successful examination, ninety (90) days must elapse before he can again be examined for license. But the inspector may grant to the applicant a lower grade of license than that applied for upon such examination. All certificates of inspection and engineers' licenses must be displayed in a conspicuous place in the engine room."

Section 2. All acts and parts in conflict herewith are hereby repealed. **Repealing clause.**

Approved: March 6, 1969.

CHAPTER NO. 256

An Act to Make Unlawful Acts Relating to Altering the Identification Numbers of Motor Vehicles.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A person who willfully removes or falsifies an identification number of a motor vehicle or engine for a motor vehicle is guilty of a misdemeanor. **Removal of motor vehicle identification.**

Approved: March 6, 1969.

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CHAPTER NO. 257

An Act to Amend Sections 16-4301 Through 16-4313, R.C.M. 1947, Relating to Public Hospital Districts, Providing For Financing Hospital Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-4301, R.C.M. 1947, is amended to read as follows:

Public hospital districts—allowable territory.

"16-4301. **Purpose of act — allowable territory embraced within public hospital district.** The purpose of this act is to authorize the establishment of public hospital districts which shall have power to supply hospital facilities and services to residents of such districts, and as herein authorized, to others. A public hospital district may contain the entire territory embraced within a county or any portion or subdivision thereof."

Amending clause.

Section 2. Section 16-4302, R.C.M. 1947, is amended to read as follows:

Petition to board of county commissioners.

"16-4302. **Petition to board of county commissioners.** *Proceedings for creation of a hospital district shall be initiated by* a petition, signed by not less than thirty per centum (30%) of the *qualified electors of the proposed hospital district, who are taxpayers upon property within the proposed hospital district and whose names appear on the last completed assessment roll for state and county taxes. The petition may consist of one (1) sheet or several sheets identical in form and fastened together after being circulated and signed so as to form a single, complete petition before being delivered to the county clerk. The petition shall give the post-office address and voting precinct of each petitioner. Only persons who are qualified to sign such petitions shall be qualified to circulate the same, and there shall be attached to the complete petition the affidavit of some person who circulated or assisted in circulating the petition, that he believes the signatures thereon are genuine and the signers knew the contents thereof before signing the same. The complete petition, addressed to the board of county commissioners of the county in which the proposed district is situated, shall be filed with the county clerk, who shall within fifteen (15) days thereafter, carefully examine the same and the county records showing the qualifications of the petitioners, and*

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attach it to a certificate under his official signature and the seal of his office, which certificate shall set forth:

(1) The total number of persons who are registered electors within the proposed hospital district and whose names appear upon the last completed assessment roll for state and county taxes.

(2) Which and how many of the persons whose names are subscribed to such petition are possessed of all of the qualifications required of signers to such petition.

(3) Whether such qualified signers constitute more or less than thirty percent (30%) of the registered electors of the proposed hospital district who are taxpayers upon property thereon and whose names appear on the last completed assessment roll for state and county taxes. The county clerk shall present the petition and his certificate to the board of county commissioners at its first meeting held after he has attached his certificate. The board shall thereupon carefully examine the petition and, if it is found that the petition is in proper form and bears the requisite number of signatures of qualified petitioners, the board shall by resolution call a hearing on the creation of such hospital district. A notice of such hearing shall be published in a newspaper having general circulation in the territory within the boundaries of the proposed hospital district, once each week for at least two (2) weeks, the last publication to be at least two (2) weeks before the hearing. If there is no newspaper having general circulation within the boundaries of the proposed hospital district, the notice of hearing shall be posted in at least three (3) public places within the boundaries of the proposed district for two (2) weeks before the hearing. The notice shall state the time, date, place and purpose of the hearing, describe the boundaries of the proposed hospital district, and state that any person residing in or owning property within the proposed hospital district may appear in support of or in opposition to the petition at such hearing."

Section 3. Section 16-4303, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"16-4303. **Hearing.** At the time fixed for said hearing, the board shall hear all competent and relevant testimony offered in support of or in opposition to said petition and the creation of such district. Said hearing may **Hearing.**

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be adjourned from time to time for the determination of said facts, or hearing petitioners or objectors, *without additional published or posted notice,* but no adjournment shall exceed two (2) weeks in all from and after the date originally noticed and published for the hearing."

Amending clause.

Section 4. Section 16-4304, R.C.M. 1947, is amended to read as follows:

Reference of creation of district at election.

"16-4304. **Reference of creation of district at election.** The board of county commissioners, *upon completion of the hearing hereinabove provided for,* shall thereupon proceed by resolution to refer the question of the creation of such district to the persons qualified to vote on such proposition. Said board, in its resolution of reference, may make such changes in the boundaries of the proposed district as it may deem advisable, without, however, including any additional lands not described in the petition, and it shall call an election, upon the question of the creation of the district."

Amending clause.

Section 5. Section 16-4305, R.C.M. 1947, is amended to read as follows:

Resolution and order of board as respects election.

"16-4305. **Resolution and order of board as respects election.** The board must, in its resolution, designate whether a special election shall be held, or whether the matter shall be determined at the next general election. If a special election is ordered, the board must, in its order, specify the *date* for such election, the voting places, and shall appoint and designate judges and clerks therefor. The election shall be held in all respects as nearly as practicable in conformity with the general election laws; provided that *if a special election is held* the polls shall be open from *8 a.m. to 6 p.m.,* on the day appointed for such election. At such election, the ballots must contain the words 'Hospital District, Yes' and 'Hospital District, No.' The judges of the election shall certify to the board of county commissioners the results of said election. No person shall be qualified to vote at such election who *has not attained legal age, who is not an owner of* property within the boundaries of said district as defined by the board, and whose name does not appear on the last completed assessment roll of the county. *Only qualified, registered electors residing within the proposed hospital district, who are taxpayers upon property therein*

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and whose names appear on the last completed assessment roll for state and county taxes shall have the right to vote on the question of the creation of the hospital district."

Section 6. Section 16-4306, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-4306. **Favorable vote—commissioners finally to organize district.** In the event that a majority of the votes cast are in favor of the creation and establishment of said hospital district, the board of county commissioners shall, within ten (10) days after the election, by resolution certify such result, and proceed with the organization of such district as herein specified. *After twenty (20) days from the passage of such resolution, the validity of the creation of such hospital district and the regularity of all proceedings preliminary thereto, shall not be questioned or asserted in any legal action."* Favorable vote—commissioners finally to organize district.

Section 7. Section 16-4307, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-4307. **Government of district—appointment, election and terms of trustees.** Said hospital district shall be governed and managed by a board of three (3) trustees, elected by the *registered electors residing in* the district. The trustees must be elected from among the *registered electors qualified to vote at general elections* within said district. *The first board of trustees shall be elected at the same election held upon the creation of the district, subject to the creation thereof, shall qualify upon the organization of the district, if created, and the trustees may be nominated and have their names appear upon the ballots upon the filing with the board of county commissioners of a petition signed by any five (5) qualified electors of the district. Any elector may sign as many nominating petitions as there are persons to be elected. The* trustees elected for the first board shall serve for terms commencing upon their being elected and qualified and terminating one (1) two (2) and three (3) years respectively, from the first Monday in May following their election, and until their respective successors shall be elected and qualify. Annually thereafter there shall be elected a trustee to serve for a term of three (3) years and until his successor shall be elected and qualify and such term of three (3) years shall commence on the first Monday Government of district—appointment, election and terms of trustees.

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in May following the said trustee's election. All elections and nominations for election of trustees thereafter, shall be conducted by said qualified voters in the same manner as provided by the laws of the state of Montana for the election of school trustees of a second or third class school district, provided that wherever in the said laws of the state of Montana it is provided that certain action shall be performed or filings made with the clerk of the school board, the trustees or the board of trustees of the school district or the county superintendent of schools, the same shall, for the purposes of this act, be taken to refer to the clerk of the board of trustees of the public hospital district, the trustees or the board of trustees of the public hospital district or the county clerk, respectively. The trustees at their first meeting shall adopt bylaws for the government and management of the district, and shall appoint a qualified person to serve as clerk of the said board, who may or may not be one of their number. The trustees shall serve without pay. A vacancy upon the board of trustees, or in the office of clerk shall be filled by appointment by the remaining members and the appointee shall serve until the next ensuing election for trustees."

Amending clause.

Section 8. Section 16-4308, R.C.M. 1947, is amended to read as follows:

Powers of district.

"16-4308. **Powers of district.** *A hospital district shall have all powers necessary and convenient to the acquisition, betterment, operation, maintenance and administration of such hospital facilities as its board of trustees shall deem necessary and expedient. Without limitation on the foregoing general grant of powers, a hospital district, acting by its board of trustees, may:*

(1) Employ nursing, administrative, and other personnel, legal counsel, engineers, architects, accountants, and other qualified persons, who may be paid for their services by monthly salaries, hourly wages, and pension benefits, or by such fees as may be agreed upon;

(2) Cause reports, plans, studies, and recommendations to be prepared;

(3) Lease, purchase, and contract for the purchase of real and personal property by option, contract for deed,

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conditional sales contract, or otherwise, and acquire real or personal property by gift;

(4) Lease or construct, equip and furnish necessary buildings and grounds and maintain the same;

(5) Adopt, by resolution, rules and regulations for the operation and administration of any and all hospital facilities under its control, and for the admission of persons thereto;

(6) Impose by resolution, and collect charges for all services and facilities provided and made available by it;

(7) Levy taxes as hereinafter prescribed;

(8) Borrow money and issue bonds as hereinafter prescribed;

(9) Procure insurance against liability of the district or its officers and employees or both, for torts committed within the scope of their official duties, whether governmental or proprietary, and against damage to or destruction of any of its facilities, equipment, or other property;

(10) Sell or lease any of its facilities or equipment as may be deemed expedient;

(11) Cause audits to be made of its accounts, books, vouchers, and funds by competent public accountants. Such a hospital *district* must admit *to its facilities* persons without regard to race, color, or sex, but such obligation shall not prevent the board of trustees of such hospital *district* from establishing reasonable minimum rates for hospital quarters, services and supplies; indigents needing such services, and for the rendition of which provision is made by the laws of Montana, must be admitted to such public hospitals, on terms and rates prescribed or authorized by law. *A hospital district may borrow money by the issuance of its bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension and betterment of hospital facilities, and to provide an adequate working capital for a new hospital, but the amount of bonds issued for such purpose and outstanding at any time shall not exceed five percent (5%) of taxable property therein, as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds. Such bonds shall be authorized, sold,*

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issued and provision made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of second or third class school districts by sections 75-3903 through 75-3934. Nothing herein shall be construed to preclude the provisions of sections 69-5301 through 69-5313 allowing the state to apply for and accept federal funds."

Amending clause.

Section 9. Section 16-4309, R.C.M. 1947, is amended to read as follows:

Budget and tax levy.

"16-4309. **Budget and tax levy.** The board of hospital trustees shall, annually, present their budget to the board of county commissioners at the regular budget meetings as prescribed by law, and therewith certify the amount of money necessary and proper for the ensuing year. The board of county commissioners must, annually, at the time of levying county taxes, fix and levy a tax, in mills, upon all property within said hospital district clearly sufficient to raise the amount certified by the board of hospital trustees. The tax so levied *for all hospital district purposes other than payment of bonded indebtedness* shall not in any year exceed three (3) mills on each dollar of taxable valuation of property within said district."

Amending clause.

Section 10. Section 16-4310, R.C.M. 1947, is amended to read as follows:

Tax collections and funds.

"16-4310. **Tax collections and funds.** The procedures for the collection of the tax shall be in accordance with the existing laws of the state of Montana. The funds collected under the tax levy shall be held by the county treasurer who shall be, ex officio, the treasurer for the hospital district and such treasurer shall keep a detailed account of all tax moneys paid into the fund, of all other moneys from any source received by the district, and of all payments and disbursements from the fund. Funds shall be paid out on warrants issued by direction of the board of trustees, signed by the majority of its membership."

Amending clause.

Section 11. Section 16-4311, R.C.M. 1947, is amended to read as follows:

Withdrawal of portion of district, petition for.

"16-4311. **Withdrawal of portion of district, petition for.** Any portion of a public hospital district may be withdrawn therefrom as in this section provided, upon

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receipt of a petition signed by fifty-one per centum (51%) of the taxpayers, or more, residing in and owning property within the area desired to be withdrawn from any public hospital district, on the grounds that such area will not be benefited by remaining in said district. The board of county commissioners shall, upon the filing of such a petition, fix a time for the hearing of such withdrawal petition which time shall not be more than four (4) weeks after the receipt thereof. The board shall, at least two (2) weeks prior to the time so fixed, publish a notice of such hearing in two (2) successive issues of a newspaper published in the county. No petition for withdrawal shall be entertained or acted upon by the board, unless the same is filed before the first Monday in March of any year. Any person interested may appear at said hearing and present objections to the withdrawal of said portion from said district. The board shall consider the petition and all objections thereto, and pass upon the merits thereof, and make its order in accordance therewith. *Any withdrawal shall be effective as of March 1 following the issuance of the withdrawal order.* Such order is subject to review by the district court of the county, and appeal may be taken from the final judgment of such district court to the supreme court of Montana. *All taxable property within the withdrawn area shall remain subject to taxation for any bonded indebtedness of the hospital district existing as of the effective date of the withdrawal, to the same extent as it would have been subject if not withdrawn.*"

Section 12. Section 16-4312, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-4312. **Alteration of boundaries—annexation.** The boundaries of any such public hospital district may be altered and outlying districts be annexed from territory contiguous thereto in the following manner: A petition signed by ten per centum (10%) or more freeholders within the territory proposed to be annexed, or by a majority of such freeholders if there are less than twenty-five (25) residing within the area proposed to be annexed, designating the boundaries of such contiguous territory proposed to be annexed and asking that it be annexed to said public hospital district, shall be presented to the board of county commissioners of the county in which said public hospital district is situated. Alteration of boundaries—annexation.

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At the first regular meeting after the presentation of said petition, said board of county commissioners shall cause notice of said petition to be published in two (2) successive issues of a newspaper published in the county prior to the date fixed by said board for the hearing of said petition, which date shall be not less than four (4) weeks after the filing of such petition. Upon the date fixed for such hearing or continuance thereof, said board shall take up and consider said petition and any objections which may be filed to the inclusion of any additional area or territory in said district. Said board of county commissioners shall have the power by order entered on its minutes to grant said petition either in whole or in part, and by order entered on its minutes to alter the boundaries of said public hospital district and to annex thereto all, or such portion of said area or territory described in said petition as will be benefited thereby. This territory shall become and be a part of such public hospital district *on the date fixed in the order of annexation,* and shall be subject to the *taxes* authorized by this act, *including taxes for any pre-existing indebtedness,* together with the pre-existing area of said district, and such *taxes* shall be uniform for the whole area and territory in the district, as enlarged."

Amending clause.

Section 13. Section 16-4313, R.C.M. 1947, is amended to read as follows:

Dissolution of district.

"16-4313. **Dissolution of district.** At any time after five (5) years from the date any public hospital district is created, such district may be dissolved upon presentation to the board of county commissioners of a petition signed by at least fifty-one per centum (51%) of the owners of property lying within such district as shown by the last completed assessment roll. Upon the filing of such petition, the board of county commissioners shall set a time for hearing the same and shall cause notice thereof to be posted in at least three (3) separate public places within said district for at least two (2) weeks prior to the hearing, and which notice shall, also, be published for at least two (2) successive issues in a newspaper published in the county prior to such hearing. If upon such hearing the commissioners find such petition to be sufficient and that the district is not indebted in any amount beyond funds immediately available to extinguish all of its debts and obligations and that there

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is good reason for the dissolution of such district, the commissioners shall enter upon their minutes an order dissolving such district. Such order shall be filed, of record, and the dissolution shall be effective for all purposes six (6) months after the date of filing said order of dissolution, providing that at or before such time the board of trustees of said district certifies to the board of county commissioners that all debts and obligations of the district have been paid, discharged or irrevocably settled, together with legal proof thereof. *Any assets of the district remaining after all debts and obligations of the district have been paid, discharged or irrevocably settled, shall become the property of the county."*

Approved: March 6, 1969.

CHAPTER NO. 258

An Act to Amend Subsection (2) of Section 16-2618, R.C.M. 1947, Relating to Security Requirements for the Deposit of Public Funds by County, City and Town Treasurers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Subsection (2) of Section 16-2618, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"(2) Said board of county commissioners, city or town council may require security for only such portion of deposits as is not guaranteed or insured according to law. Such *security* shall consist of *cashier's check or checks issued by the Federal Reserve Bank, bonds of the United States government and its dependents, bonds guaranteed by the United States government or its dependents, bonds and warrants of the state of Montana, bonds and warrants of any county of the state of Montana, and bonds of any city, town or school district of the state of Montana, which are a general obligation of such county, city, town or school district, bonds of the Federal Land Banks, Federal Intermediate Credit Bank debentures, Federal Home Loan Bank notes and bonds, Bank for Cooperatives' debentures, Federal National Mortgage Association notes, bonds and guaranteed certificates of participation, obligations of or fully guaranteed by* **Security requirements for deposit of public funds by county, city and town treasurers.**

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the Government National Mortgage Association, Farmers' Home Administration insured notes, notes fully guaranteed as to principal and interest by the Small Business Administration, Federal Housing Administration debentures, general obligation bonds of other states and counties of other states and bonds issued in the United States of America, which are quoted on the New York market which shall be acceptable at not to exceed ninety per centum (90%) of such market quotation.''

Approved: March 7, 1969.

CHAPTER NO. 259

An Act to Amend Subsection (2) of Section 79-301, R.C.M. 1947, Relating to Security Requirements for the Deposit of Public Funds by the State Depository Board and the State Treasurer.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Subsection (2) of Section 79-301, R.C.M. 1947, is amended to read as follows:

Security requirements for deposit of public funds by state depository board and state treasurer.

''(2) No deposits in excess of the amount guaranteed or insured according to law shall be made of state funds by said depository board, or by the state treasurer under the direction of said board, unless such bank shall first have delivered to the state treasurer or trustee with some solvent bank as hereinafter provided, as security therefor, cashier's check or checks issued by the Federal Reserve Bank, *bonds of the United States government and its dependents, bonds guaranteed by the United States government or its dependents, bonds and warrants of the state of Montana, bonds and warrants of any county of the state of Montana, and bonds of any city, town or school district of the state of Montana, which are a general obligation of such county, city, town or school district, bonds of the Federal Land Banks, Federal Intermediate Credit Bank debentures, Federal Home Loan Bank notes and bonds, Bank for Cooperatives' debentures, Federal National Mortgage Association notes, bonds and guaranteed certificates of participation, obligations of or fully guaranteed by the Government National Mortgage Association,*

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Farmers' Home Administration insured notes, notes fully guaranteed as to principal and interest by the Small Business Administration, Federal Housing Administration debentures, general obligation bonds of other states and counties of other states and bonds issued in the United States of America, which are quoted on the New York market which shall be acceptable at not to exceed ninety per centum (90%) of such market quotation, in at least the amount of such deposits in excess of the amount guaranteed or insured according to law, which bonds or security shall be first approved by the state depository board; provided, that the state depository board may require security in a greater amount than that above named; provided, that when negotiable securities are furnished, such securities may be placed in trust and the trustees' receipt may be accepted in lieu of the actual securities when such receipt is in favor of the state treasurer, his successors in office, and the state of Montana, and the form of receipt and the trustees have been approved by the state examiner''

Approved: March 7, 1969.

CHAPTER NO. 260

An Act Relating to Payments to Silicotics; Amending Section 71-1003, 71-1004, and 71-1008, All Revised Codes of Montana, 1947, as Amended; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 71-1003, Revised Codes of Montana, 1947, as last amended by Chapter 267, Montana Session Laws, 1965, be, and the same is hereby amended to read as follows:

Eligibility requirements for aid to persons having silicosis.

"71-1003. **Eligibility requirements for aid to persons having silicosis, as herein defined.** Payments shall be made under this act to any person who:

(a) Has silicosis, as defined in section 71-1001 of the Revised Codes of Montana, 1947, which results in his total disability so as to prevent him from engaging in a gainful occupation. The term ''gainful occupation'' as

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used herein shall not be construed to mean occasional or intermittent light employment where the ability to do manual labor is not essential, but shall mean any person having an income from any other source exceeding one hundred fifty dollars ($150.00) per month.

(b) Has resided in and been an inhabitant of the state of Montana for ten (10) years, or more, immediately preceding the date of the application.

(c) Has silicosis and is entitled to payments under this act, but who is not at the time of receiving a payment an inmate of a penal institution, or is not a patient or inmate of any institution for the treatment of mental diseases, or is not a patient in a medical institution as a result of having been diagnosed as having a psychosis. If the person to whom payment has been ordered to be paid is an inmate of Montana State Tuberculosis Sanatorium, then and in that case the payment herein provided for shall be made to his wife and children, if any.

(d) Is not receiving, with respect to any month for which he would receive a payment under this act, compensation under the Workmen's Compensation Act of the state of Montana, as provided by Chapter 155, Laws of 1959, which will equal the sum of *one hundred forty dollars ($140.00)* hereunder. If he is receiving payments under the Workmen's Compensation Act, as provided by Chapter 155, Laws of 1959, which is less in the aggregate than *one hundred forty dollars $(140.00)*, then he is entitled to a payment under this act of the difference between the amount received under the Workmen's Compensation Act, as provided in Chapter 155, Laws of 1959, and *one hundred forty dollars ($140.00)* per month."

Amending clause.

Section 2. That Section 71-1004, Revised Codes of Montana, 1947, as last amended by Chapter 267, Montana Session Laws, 1965, be and the same is hereby amended to read as follows:

Amounts of payments.

"71-1004. **Amounts of payments.** Subject to the provisions of this act and the deductions herein provided, any person who has silicosis, as defined in this chapter, and who has, subject to the regulations and standards of the industrial accident board; been determined by the industrial accident board to be entitled to a payment un-

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der this chapter for silicosis, shall be granted a payment by the said industrial accident board of *one hundred forty dollars ($140.00)* per month subject to such appropriations as may from time to time be made. The legislature shall authorize such additional appropriations as may be necessary to make the increased monthly payments provided herein."

Amending clause.

Section 3. That Section 71-1008, Revised Codes of Montana, 1947, as last amended by Chapter 267, Montana Session Laws, 1965, be and the same is hereby amended to read as follows:

Conformity with acts of federal government.

"71-1008. **Conformity with acts of federal government.** If and when the government of the United States makes grants to states in aid of and allowing payments to persons having silicosis, as herein defined, the industrial accident board of the state of Montana is hereby authorized to administer in the state of Montana such grants-in-aid and payments in addition to grants made by this act. The total payments to any individual under this act shall not exceed *one hundred forty dollars ($140.00)* per month exclusive of any grants made by Congress."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 7, 1969.

CHAPTER NO. 261

An Act Amending Sections 66-1924, 66-1925, 66-1929, 66-1933, 66-1937, 66-1940, and 66-1941, R.C.M., 1947, Which Sections are a Part of the Real Estate License Act of 1963, by Redefining the Words "Broker" and "Salesman", by Establishing Additional Standards for Licensing Brokers and Salesmen, by Amending Bonding Requirements for Brokers and Salesmen, and by Providing a Penalty for Acting as a Broker or Salesman When License is Suspended or Revoked; Establishing Revised Hearing Procedures; and Repealing Sections 66-1938 and 66-1942, R.C.M., 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-1924, R.C.M., 1947, is amended to read as follows:

Title—license required.

"66-1924. **Title—license required.** This act shall be known and may be cited as the 'Real Estate License Act of 1963.' From and after the effective date of this act it shall be unlawful for any person to engage in or conduct, directly or indirectly, or to advertise or hold himself out as engaging in or conducting the business, or acting in the capacity of a real estate broker or a real estate salesman within this state without first having procured a license as such broker or salesman, *or otherwise complied with the provisions of* this act."

Amending clause.

Section 2. Section 66-1925, R.C.M., 1947, is amended to read as follows:

"66-1925. **Definitions.** As used in this act, the following terms shall have the following meanings except where the context clearly indicates that another meaning is intended:

"Real estate."

(a) The term 'real estate' shall include leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and whether the real estate is situated in this state or elsewhere.

"Broker."

(b) The term 'broker' shall include any *individual* who for another, or for a fee, commission or other valuable consideration, or who with the intent or expectation of receiving the same, negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange or lease of any real estate or of the improvements thereon, or collects rents or attempts to collect rents, or advertises or holds himself out as engaged in any of the foregoing activities. The term 'broker' also includes any *individual* employed by or on behalf of the owner or owners, or lessor or lessors of real estate, to conduct the sale, leasing, subleasing or other disposition thereof at a salary or for a fee, commission or any other consideration; it also includes any *individual* who engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he undertakes primarily to promote the sale, lease or other disposition of real estate within this state through its

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listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both. *Corporations, partnerships and associations shall not be licensed under this act but nothing in this act shall prevent a corporation or partnership from acting as a real estate broker provided that every corporation officer, and every partner, actually negotiating or attempting to negotiate the listing, sale, purchase, rental, exchange or lease of any real estate or of the improvements thereon, or collecting rents or attempting to collect rents, on behalf of said corporation or partnership, shall be licensed as a broker. All officers of any corporation or all members of any partnership, acting as a broker, shall be deemed in violation of this act unless there be full compliance with the provisions of this subsection.*

"Salesman." (c) The term 'salesman' shall include any *individual* who, for a salary, commission or compensation of any kind, is employed, either directly, indirectly, regularly or occasionally, by any real estate broker to sell, purchase or negotiate for the sale, purchase, exchange or renting of any real estate.

"Person." (d) The term 'person' shall mean and include individuals, partnerships, associations and corporations, foreign and domestic, *except that when referring to a person licensed under this act it shall mean an individual.*

"He" to include. (3) The term 'he' shall mean and include 'she' and 'it.' The term 'his' shall mean and include 'her' and 'its'.''

Amending clause. Section 3. Section 66-1929, R.C.M., 1947, is amended to read as follows:

Licenses—applicants for licenses. "66-1929. **Licenses—applicants for licenses.** (a) Licenses shall be granted only to *individuals* who are deemed by the commission to be of good repute and competent to transact the business of a broker or salesman in such manner as to safeguard the interests of the public.

(b) Each applicant for a broker's license shall be a citizen of the United States*; shall be* at least twenty-one (21) years of age*; shall have graduated from an accredited high school or shall have completed an equivalent education as determined by the commission; shall have been actively engaged as a licensed real estate salesman*

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for a period of two (2) years or shall have had experience or special education equivalent to that which a licensed real estate salesman ordinarily would receive during such two (2) year period as determined by the commission, except that if the commission shall find that an applicant could not obtain employment as a licensed real estate salesman because of conditions existing in the area where he resides, the commission may waive this experience requirement; and must file an application for license with the commission. The commission shall require such information as it may deem necessary from every applicant to determine his honesty, trustworthiness and competency.

(c) Each applicant for a salesman's license shall be at least twenty-one (21) years of age*; shall have received credit for completion of two (2) years of full curriculum study at an accredited high school or shall have completed an equivalent education as determined by the commission;* and must file an application for license with the commission. His application shall be accompanied by the recommendation of the licensed broker by whom the applicant will be employed or placed under contract, certifying that the applicant is of good repute and that the broker will actively supervise and train the applicant during the period the requested license remains in effect. The commission shall issue to each licensed broker and to each licensed salesman a license and a pocket card in such form and size as the commission shall prescribe."

Amending clause.

Section 4. Section 66-1933, R.C.M., 1947, is amended to read as follows:

Bond of brokers and salesmen.

"66-1933. **Bond of brokers and** *salesmen.* No license shall be issued or renewed until the applicant for a broker's license or salesman's license has filed a bond with the commission in the sum of ten thousand dollars ($10,000.00), executed by a surety company duly authorized to do business in the state of Montana in a form approved by the commission and conditioned that the applicant, *if and when licensed,* shall conduct his business and himself in accordance with the provisions of this act, *and further conditioned that the applicant, if and when licensed, shall pay, to the extent of ten thousand dollars ($10,000.00), all judgments recovered against him for loss or damage to any person arising in the course of the applicant's practice as a real estate broker or salesman.*

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All bonds given by licensees under the provisions of this act, after approval, shall be filed and held in the office of the commission. *If for any reason the bond of any broker or salesman shall become cancelled or void, the license of such broker or salesman shall be automatically suspended until such broker or salesman shall be again fully bonded as herein provided and said bond has been approved by the commission. If such suspension is not terminated by rebonding and approval within thirty (30) days from the date of suspension, the license of such broker or salesman shall be automatically revoked."*

Section 5. Section 66-1937, R.C.M., 1947, is amended to read as follows: Amending clause.

"66-1937. **Grounds for refusal—suspension or revocation of license.** The commission may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any real estate broker or any real estate salesman and shall have the power to revoke or suspend any license issued under this act whenever the broker or salesman has been found guilty by a majority of the commission of any of the following practices: Grounds for refusal—suspension or revocation of license.

(1) Intentionally misleading, untruthful or inaccurate advertising, whether printed or by radio, display or other nature, which advertising in any material particular or in any material way misrepresents any property, terms, values, policies or services of the business conducted;

(2) Making any false promises of a character likely to influence, persuade or induce;

(3) Pursuing a continued and flagrant course of misrepresentation, or making false promises through agents or salesmen, or any medium of advertising, or otherwise;

(4) Use of the term 'realtor' by a person not authorized to do so, or using any other trade name or insignia of membership in any real estate organization of which the licensee is not a member;

(5) Failing to account for or to remit any money coming into his possession belonging to others;

(6) Accepting, giving or charging any undisclosed commission, rebate or profit on expenditures made for a principal;

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(7) Acting in a dual capacity of broker and undisclosed principal in any transaction;

(8) Guaranteeing or authorizing or permitting any person to guarantee future profits which may result from the resale of real property;

(9) Offering real property for sale or lease without the knowledge and consent of the owner or his authorized agent or on any terms other than those authorized by the owner or his authorized agent;

(10) Inducing any party to a contract of sale or lease to break such contract for the purpose of substituting, in lieu thereof, a new contract with another principal;

(11) Accepting employment or compensation for appraising real property contingent upon the reporting of a predetermined value or issuing an appraisal report on real property in which he has an undisclosed interest;

(12) Negotiating a sale, exchange or lease of real property directly with an owner or lessee if he knows that such owner has a written outstanding contract in connection with such property, granting an exclusive agency to another broker;

(13) Soliciting, selling or offering for sale real property by conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Representing or attempting to represent a real estate broker, other than the employer, without the express knowledge or consent of the employer;

(15) Failing voluntarily to furnish a copy of any written instrument to any party executing the same at the time of its execution;

(16) Paying a commission *in connection with any real estate sale or transaction to any person who is not licensed as a real estate broker or real estate salesman under this act;*

(17) Intentionally violating any reasonable rule or regulation promulgated by the commission in the interests of the public and in conformance with the provisions of this act;

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(18) Failing, if a salesman, to place, as soon after receipt as is practicably possible, in the custody of his registered broker, any deposit money or other money entrusted to him *as salesman* by any person;

(19) Demonstrating his unworthiness or incompetency to act as a broker or salesman.

(20) Conviction af a felony."

Section 6. Section 66-1940, R.C.M., 1947, is amended to read as follows: Amending clause.

"66-1940. **Penalties—legal actions.** (a) Any *individual* acting as a broker or salesman without a license *or while his license is suspended or revoked, or any person who violates any provision of this act,* shall be guilty of a misdemeanor and upon conviction thereof by a district court of this state shall be punishable by a fine of not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00) or by imprisonment for a term not to exceed ninety (90) days, or both. Upon conviction of a second or subsequent violation, the person shall be punishable by a fine of not less than five hundred dollars ($500.00) or more than two thousand dollars ($2,000.00) or by imprisonment for a term not to exceed six (6) months, or both. Penalties—legal actions.

(b) In case any person in a civil action is found guilty of having received any money, or the equivalent thereof, as a fee, commission, compensation, or profit by or in consequence of a violation of any provision of this act, he shall in addition be liable to a penalty of not less than the amount of the sum of money so received and not more than three times the sum so received, as may be determined by the court, which penalty may be recovered in any court of competent jurisdiction by any person aggrieved.

(c) Any person sustaining damages by failure of a real estate broker or real estate salesman to comply with the provisions of this act, shall have the right to commence an action in his own name against the real estate broker and his surety, or the real estate salesman and his surety, or both the broker and any salesman employed directly or indirectly by such broker and their respective sureties, for the recovery of any damages sustained

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as the result of any act specified in section 66-1937 herein or as a result of the failure of the real estate broker or real estate salesman to comply with the provisions of this act. In all cases where suit is brought against the broker or the salesman, and his surety, the court shall, upon entering judgment for the plaintiff, allow as a part of the costs of suit a reasonable amount as attorney's fees.

All penalties provided for by this section may be collected from the broker's and salesman's bonds provided by section 66-1933."

Amending clause.

Section 7. Section 66-1941, R.C.M., 1947, is amended to read as follows:

Action for compensation.

"66-1941. **Action for compensation.** Any person engaged in the business of or acting in the capacity of a real estate broker or real estate salesman within this state shall not be permitted to bring or maintain any action in the courts for the collection of compensation for the sale or lease or otherwise disposing of real estate without first alleging and proving that such person was a duly licensed real estate broker or real estate salesman *or authorized to act as a broker under the provisions of this act* at the time the alleged cause of action or claim arose."

Hearings—procedure. Notice of hearing upon complaint.

Section 8. **Hearings—procedure.** (a) Notice of hearing upon complaint. When the commission shall have investigated an application for a real estate broker's or salesman's license or investigated the actions of a real estate broker or salesman upon the sworn complaint in writing of any person, or upon its own motion, and such investigation shall have revealed reasonable grounds for denying such application, or reasonable indication of a violation of any of the provisions of this act as cause for revoking or suspending a license issued to any real estate broker or salesman, the commission shall, before denying the application or revoking or suspending the license, set the matter for hearing and give twenty (20) days' notice of hearing the same, in writing, to the applicant or licensee, by registered mail, return receipt requested, addressed to the last known address of such applicant or licensee, and if such licensee is a real estate salesman, or such applicant seeks a salesman's license, such notice shall also be sent to the broker employing him or in whose employ he seeks to enter, at such broker's last known business address by registered mail, return receipt requested. If a written

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complaint or charges have been filed with the commission or prepared by it, a copy thereof shall be attached to and sent with each of the notices. The notice shall be substantially in the following form: Form of notice.

BEFORE THE MONTANA REAL ESTATE COMMISSION

In the Matter of the (Application of John Doe for a Real Estate Broker's License) or (Charge Against John Doe, a Licensed Real Estate Broker, for Violation of the Real Estate Licence Act of 1963).	NOTICE OF HEARING

THE STATE OF MONTANA SENDS GREETING TO:

.....

(1) YOU ARE HEREBY NOTIFIED that the Montana Real Estate Commission has investigated your application for a real estate broker's (salesman's) license and such investigation has revealed reasonable cause to set said matter for hearing at ..... o'clock .....M., on ....., 19....., at ....., Montana.

(or)

(2) YOU ARE HEREBY NOTIFIED that the Montana Real Estate Commission has received a sworn complaint concerning your action as a real estate broker (or salesman), (hereto attached) alleging as follows (or has charged you with the following violation):

.....

.....

.....

That this commission has investigated said complaint (or has of its own motion investigated your action as a real estate broker-salesman) and found reasonable cause to set said matter for hearing at ..... o'clock .....M., on ....., 19....., at ....., Montana. You shall respond to the charges above (or hereto attached) by filing your written answer to the charges with the commission in triplicate within fourteen (14) days from the date of mailing of this notice.

(and)

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You shall appear at the time and place above mentioned and produce what evidence and witnesses you may have. If you fail to appear at the hearing, and good cause for continuance is not shown, the commission will render its decision upon the evidence presented to it.

Dated at Helena, Montana, this ..... day of ....., 19..... .

MONTANA REAL ESTATE COMMISSION

.....
Chairman

The licensee or applicant shall file an answer to the charges within fourteen (14) days after notice has been mailed by the commission. Upon receipt of the written answer of the person charged, the chairman of the commission will send a copy of said answer to the person or persons presenting the sworn complaint, if any, and one copy to each member of the commission.

Commission hearing and decision—appeal.

(b) **Commission hearing and decision—appeal.** The hearing may be held in the offices of the commission in Helena, Montana, or elsewhere, as the commission shall order. All hearings shall be open to the public and conducted informally insofar as an orderly presentation will permit. Any interested party shall have the right to be heard in person or by counsel, and any interested party or a member of the commission may examine or cross-examine any witness at the discretion of the chairman. The chairman may administer oaths, examine the witnesses and take any evidence he deems pertinent to the determination of the charges. The commission shall consider only that evidence presented or introduced at the hearing, but shall not be bound by any laws of evidence of this state. All witnesses must be sworn before testifying. A full and complete record shall be kept of all proceedings and all testimony shall be recorded, but need not be transcribed unless the matter be appealed. Four (4) members of the commission shall constitute a quorum, one of whom must be the chairman. No member shall sit as a member of the commission to hear any matter in which he has an interest, nor shall he represent any interested party or witness at a hearing. Any interested party may challenge any member of the commission in writing, served upon the chairman, five (5) days in advance of the sched-

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uled time of any hearing stating the reasons therefor, and if the commission shall find merit in the challege, it shall disqualify the challenged member. A decision of a majority of the commission members sitting shall constitute the decision of the commission on any issue presented for its decision. The commission shall have continuing jurisdiction over all matters heard by it, to examine additional evidence or to hear additional testimony, and to revise, modify, alter, amend or reverse all orders, findings and determinations made by it at any time and shall not lose jurisdiction unless and until jurisdiction has been taken by a court of competent jurisdiction in a proceeding filed therein as provided by section 66-1939. The commission may postpone or continue a hearing from time to time as it deems necessary. As soon as possible after the hearing, the commission shall render its decision and order in writing, stating its findings and conclusions signed by all commission members joining in the decision. If an interested party fails to appear at the hearing after due notice, and good cause for continuance is not shown, the commission shall render its decision upon the evidence presented to it. Copies of such decision shall be served upon all interested parties by registered mail, return receipt requested, and shall be kept on file in the office of the commission in Helena, Montana, open to public inspection. Any witness subpoenaed shall be entitled to the same fees and mileage as is prescribed by law in judicial proceedings in the district courts of this state in civil actions, but the payment of such fees and mileage must be paid out of and kept within the limits of the funds created. Depositions may also be taken and used as in civil cases in the district courts. In the absence of an appeal, the decision of the commission shall become final and take effect thirty (30) days after service of the decision upon all interested parties appearing. If an appeal is taken to a district court or to the supreme court, and the decision of the commission is reversed or in any way modified, the commission will amend its decision to conform to the ruling of the court no later than the date upon which the right to appeal or petition for rehearing by the court shall expire.

Subpoena— enforcement by warrant of arrest.

(c) **Subpoena — enforcement by warrant of arrest.** Upon written application from any interested party to a hearing or upon the request of any member of the com-

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mission, or at his own discretion, the chairman may issue a subpoena requiring the attendance and testimony of any witness present in the state of Montana, and he may further demand of such a witness that he produce any papers, books, records or documents within the power of such witness to obtain, the subpoena to be substantially in the following form:

BEFORE THE MONTANA REAL ESTATE COMMISSION

In the Matter of the (Application of John Doe for a Real Estate Broker's License) or (Charge Against John Doe, a Licensed Real Estate Broker, for Violation of the Real Estate License Act of 1963).	SUBPOENA (DUCES TECUM)

THE STATE OF MONTANA SENDS GREETING TO:

.....

Pursuant to the Real Estate License Act of 1963, as amended,

WE COMMAND YOU, that all and singular, business and excuses being set aside, you appear and attend before the Montana Real Estate Commission at (its offices in the State Capitol Building, in Helena, Montana) (at ....., Montana), at ..... o'clock .....M., on the ..... day of ....., 19....., then and there to testify as a witness in the above-entitled matter, (and that you bring with you and there produce the following papers, books, records, or documents now in your custody or under your control, namely: .....
.....)

GIVEN at Helena, Montana, this ..... day of ....., 19..... .

MONTANA REAL ESTATE COMMISSION

.....
Chairman

All subpoenas issued shall be served as provided in Rule 45(c), Montana Rules of Civil Procedure. If a witness

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shall fail or refuse to attend a hearing, or fail to produce the papers, books, records, or other documents demanded of him, in accordance with any subpoena so issued and served, the chairman, upon proof of service of the subpoena, may issue a warrant to the sheriff of the county where the witness may be, to arrest the witness and bring him before the commission where his attendance is required, together with any papers, books, records or documents demanded in such subpoena. Such warrant shall be substantially in the following form:

BEFORE THE MONTANA REAL ESTATE COMMISSION

In the Matter of the (Application of John Doe for a Real Estate Broker's License) or (Charge Against John Doe, a Licensed Real Estate Broker, for Violation of the Real Estate License Act of 1963).	WARRANT OF ARREST

THE STATE OF MONTANA, TO ANY SHERIFF, CONSTABLE, MARSHAL, HIGHWAY PATROL OFFICER OR POLICE OFFICER IN THIS STATE:

Subpoena having been issued by the chairman of the Montana Real Estate Commission pursuant to the Real Estate License Act of 1963, as amended, commanding the attendance of the above-named ..... to appear before said commission at (its offices in the Capitol Building in Helena, Montana) at ..... o'clock .....M., on the..... day of .....' 19....., (and that he bring with him certain named papers, books, records or documents) and that the above-named ..... having failed and refused to appear at the said time and place (or failed to produce the papers, books, records and documents demanded),

YOU ARE THEREFORE COMMANDED FORTHWITH to arrest the above-named ..... and bring him before me at (the offices of the Montana Real Estate Commission in the State Capitol Building in Helena, Montana) (together with the papers, books, records and documents demanded), at ..... o'clock .....M., on the ..... day of ....., 19..... .

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Dated at Helena, Montana, this ..... day of ....., 19..... .

MONTANA REAL ESTATE COMMISSION

.....
Chairman

Where, in any proceeding before the commission, any witness shall fail or refuse to testify, the giving of his testimony may be enforced in the same manner as courts of competent jurisdiction enforce testimony of witnesses in civil cases in the courts of this state.

"Interested party." (d) **Definitions.** As used in this section, the term "interested party" means:

(1) The party or parties charged with any violation of this act or an applicant for issuance of a real estate broker's or salesman's license, as the case may be.

(2) All partners or business associates of the party or parties charged, or of the applicant, as the case may be, and all officers, directors and stockholders of any corporation through or for which the party or parties charged sell real estate as defined in this act.

(3) If the party charged is a broker, then any salesman employed by him; if a salesman, then the broker employing him.

Repealing clause. Section 9. Sections 66-1938 and 66-1942, R.C.M., 1947, are hereby repealed.

Severability clause. Section 10. If any clause, sentence, section, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair, or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid or inoperative.

Repealing clause. Section 11. All acts or parts of acts in conflict herewith are hereby repealed.

Approved: March 7, 1969.

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CHAPTER NO. 262

An Act to Generally Revise the Montana Juvenile Code Title 10, Chapter 6 by Redefining Delinquent Child; Placing the Jurisdiction of Persons Under Eighteen Charged With Violating Any Laws of the State or City Ordinance With the Juvenile Court; Allowing the County Attorney Under Direction of the Juvenile Judge to File an Information Against a Child Sixteen or Over Who Has Committed Murder, Rape, Arson, Manslaughter, Robbery or Burglary; Deleting Reference to Separate Facilities Used for Juveniles Confined in the State Prison; Giving the District Court Judge Discretionary Power to Appoint Committees to Assist Him in Juvenile Matters; Amending Sections 10-602, 10-603, 10-607, 10-610, 10-622, 10-623, 10-625, 10-626, 10-628, 10-630, and 80-2204, R.C.M. 1947; and Repealing Sections 75-3001, 75-3002, 10-604, 10-605, 10-609, 10-618, 10-619, 10-620, and 10-632, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 10-602, R.C.M. 1947, is amended to read as follows: Amending clause.

"10-602. **Definitions.** (1) Whenever the words 'the court' are used in this act, they mean the juvenile department of the district court as established by this act. Whenever the district court is meant, it is referred to as the district court. "The court."

The word 'child' means a person less than eighteen years of age. "Child."

The word 'adult' means a person eighteen years of age or older. "Adult."

The singular shall be construed to include the plural, and the plural the singular, and the masculine the feminine, when consistent with the intent of this act.

(2) The words 'delinquent child' include: "Delinquent child."

(a) A child who has violated any ordinance of any city.

(b) A child who has violated any law of the state.

(c) A child who by reason of being wayward or

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habitually disobedient is uncontrolled by his parent, guardian, or custodian.

(d) A child who is habitually truant from school or home.

(e) A child who habitually so deports himself as to injure or endanger the morals or the health of himself or others.

(f) A child who unlawfully, negligently, dangerously, or willfully operates a motor vehicle on the highways of the state or on the roads and streets of any county or city so as to endanger life or property, and a child who operates a motor vehicle on such highways, roads or streets while intoxicated or under the influence of intoxicating liquor, *or any other driving infractions that show the child to be lacking parental supervision or a disrespect for the traffic laws of this state.*"

Amending clause.

Section 2. Section 10-603, R.C.M. 1947, is amended to read as follows:

Jurisdiction.

"10-603. **Jurisdiction.** The district courts of the several counties of this state shall have jurisdiction in all cases coming within the terms and provisions of this act. It is provided that the district court shall be called the juvenile court when acting under the juvenile court laws.

The juvenile court shall have exclusive original jurisdiction in proceedings:

(a) concerning any child who is delinquent;

(b) *concerning any person under twenty-one (21) years of age charged with having violated any law of the state or ordinance of any city or town prior to having become eighteen (18) years of age.*

In traffic matters involving persons under twenty-one (21) years of age justice of the peace and police courts or such other courts as are designated by the legislature shall have concurrent jurisdiction as provided in section 32-21-163, R.C.M. 1947;

(c) When the juvenile court has jurisdiction of any child sixteen (16) years of age, or over, who is accused of committing or the attempt to commit murder, man-

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slaughter, arson in the first or second degree, assault in the first or second degree, robbery, burglary, and carrying a deadly weapon with intent to assault, or who commits rape under the circumstances specified in subdivisions 3 and 4 of section 94-4101, R.C.M. 1947, then the county attorney may request the juvenile court to be permitted to file an information against the juvenile in district court, or, when the facts warrant, the juvenile judge may order the county attorney to proceed against the juvenile in district court on an information.

Before making such order the juvenile judge must hear the matter by an informal preliminary hearing to determine first, if there is probable cause to believe the juvenile has committed the felony, and, second, to determine whether under the circumstances it appears necessary for the best interest of the state that the juvenile be held to answer the information in district court.

After the information is filed in district court that court shall have full jurisdiction to proceed against the juvenile and shall proceed against him in the same manner as if he were an adult.

If the juvenile is found guilty in district court and is sentenced to the state prison, his commitment shall be to the department of institutions to be by them confined in whatever institution to them seems most proper;

(d) when jurisdiction shall have been obtained by the juvenile court in the case of any child, such jurisdiction shall continue until the child becomes twenty-one (21) years of age unless the child is ordered committed to a state custodial or correctional institution or to the state department of institutions;

(e) the county where a child is a resident shall have primary jurisdiction over any child charged with being a juvenile delinquent and the juvenile court of that county shall assume the handling of the cause. In the case of a juvenile sixteen (16) years of age or over who is accused of one of the serious offenses listed in subsection (c) of this section, the juvenile courts in the county where the offense occurred shall serve as the preliminary hearing court and if the juvenile is to be tried in district court the charge shall be filed and the trial held in the district court of the county where the offense occurred, otherwise

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the matter shall be transferred to the county where the child is a resident.''

Right to counsel—jury trial.

Section 3. The juvenile in any case to be heard on a written petition charging delinquency shall have the right to demand a jury trial and shall have the right to be represented by counsel. The rights are deemed waived if not exercised. When a jury trial is required in a juvenile case, it may be held before the regular trial panel. However, if the regular panel is not in attendance, the court may draw a jury from jury box No. 3. Jury trials demanded in juvenile courts shall be granted as soon as possible.

Preliminary inquiry.

Section 4. (1) Whenever any person informs the court that a child is a delinquent as defined in this act the court shall cause, by citation or otherwise, the child to be brought before the court or the juvenile probation officer for the purpose of making a preliminary inquiry to determine whether the interests of the child or the public require that further action be taken. The matter may be handled by an informal adjustment including the placing of the child on probation, or the court may order the county attorney to file a petition charging the child with being a juvenile delinquent.

Petition—form.

(2) If a petition is filed the proceeding shall be entitled, ''In the matter of ....., a child under eighteen (18) years of age.'' Any record made on any juvenile matter shall not be open to public examination without order of the court.

(3) The petition shall be prepared and signed by the county attorney and shall contain a brief recitation of the facts which bring the child within the provisions of this act, and, shall include such residence and other matters as will properly inform the court on the matter.

Amending clause.

Section 5. Section 10-607, R.C.M., 1947, is amended to read as follows:

Service of citation.

"10-607. **Service of citation.** *(1) Written petition.* Service of citation shall be made personally by the delivery of copies thereof to the person cited; provided that if the judge is satisfied that it is impracticable to serve personally such citation or the notice provided in the preceding section, he may order service by registered

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mail to their last known address, or by the publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if service is effected at least twenty-four hours before the time fixed in the citation for the return thereof.

Service of citation, process or notice required by this act may be made by any suitable person under the direction of the court.

(2) Citation for an informal hearing may order the child brought before the court immediately or at any time set by the court. The citation may command the child be brought before the court immediately in which case it must be directed to a peace officer and must be handled like a warrant of arrest."

Arrest of child.

Section 6. (1) Whenever any peace officer believes, on reasonable grounds, that any child is violating any law or ordinance or engaging in other conduct that would be grounds for finding the child a delinquent, or when the surroundings are such as to endanger his health, morals, or welfare unless immediate action is taken, then the peace officer shall take the child into custody in the same manner as for the arrest of an adult.

Release to parent.

(2) Whenever the peace officer believes, on reasonable grounds, that the child can be released to a parent, guardian or other person who has had custody of the child, then the peace officer may release the child to that person or persons upon receiving a written promise from him or them to bring the child before the juvenile court or the juvenile probation officer at a time and place specified in the written promise.

Child in custody.

(3) Whenever the peace officer believes, on reasonable grounds, that the child must be held in custody until his appearance in juvenile court, then the peace officer must deliver the child to the juvenile court or probation officer without undue delay. If it is necessary to hold the child pending appearance before the juvenile court then the child must be held in some place that has been approved by the juvenile court and completely separated from adult offenders.

Notice to court.

(4) Whenever any peace officer has apprehended a child as hereinabove provided, he shall, as soon as prac-

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ticable, notify the juvenile court or probation officer of such fact with a report of his reasons for the apprehension.

Amending clause.

Section 7. Section 10-610 ,R.C.M. 1947, is amended to read as follows:

Transfer from other courts.

"10-610. **Transfer from other courts.** If, during the pendency of a criminal or quasi-criminal *proceeding* against any person in any other court, it shall be ascertained that said person was at the time of committing the alleged offense within the definition of 'delinquent child' as set out in section 10-602, *R.C.M. 1947,* it shall be the duty of such court to transfer such case immediately, together with all papers, documents, and testimony connected therewith, to the juvenile court. The court making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile court or to that court itself, or release such child in the custody of some suitable person, to appear before the juvenile court at a time designated. The juvenile court shall thereupon proceed to hear and dispose of such case in the same manner as if it had been instituted in that court in the first instance."

Amending clause.

Section 8. Section 10-613, R.C.M. 1947, is amended to read as follows:

Modification of judgment.

"10-613. **Modification of judgment.** Any order of the court may be modified at any time, except an order committing a child to the custody of a state custodial or correctional institution, *or to the department of institutions.*"

Amending clause.

Section 9. Section 10-622, R.C.M. 1947, is amended to read as follows:

Probation officers—appointments—removal—salaries.

"10-622. **Probation officers—appointments—removal—salaries.** In every judicial district of the state of Montana the judge thereof having jurisdiction of juvenile matters may appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided that the judge of the district court may employ him on a yearly salary not to

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exceed nine thousand dollars ($9,000), or on a per diem basis for the time actually and necessarily employed in performing the duties of the office. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one county, his salary shall be paid by that county.

The judge having jurisdiction of juvenile matters may also appoint such additional persons to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment, provided that such salaries shall not exceed ninety percent (90%) of the salary of the chief probation officer.

For all necessary travel incident to his official duties in connection with the investigation, supervision, and transportation of children, the probation officer shall, in addition to his official salary, be reimbursed for actual expenses incurred."

Section 10. Section 10-623, R.C.M. 1947, is amended to read as follows: Amending clause.

"10-623. **Duties and powers of the probation department.** The chief probation officer, under the direction of the judge, shall have charge of the work of the probation department. The probation department shall make such investigation as the juvenile court may direct, keep a written record of such investigations and submit the same to the judge, or deal with the same as the judge may direct. The department shall furnish to any delinquent child placed on probation *or to any parent or guardian of such child* a written statement of the conditions of probation, and shall keep informed concerning the conduct and condition of each person under its supervision, and shall report thereon to the judge as he may direct. Each probation officer shall use all suitable methods to aid persons on probation and bring about improvement in their conduct and condition. The probation department shall keep full records of its work, and shall keep accurate and complete accounts of money collected from persons under its supervision, and shall give receipts therefor and shall make reports thereupon Duties and powers of the probation department.

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as the judge may direct. Probation officers, for the purpose of this act, shall have the powers of police officers.

All information obtained in discharge of official duty by any officer or other employee of the juvenile court shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this act to receive such information, unless and until otherwise ordered by the judge."

Amending clause.

Section 11. Section 10-625, R.C.M. 1947, is amended to read as follows:

Physical and mental examinations and treatment.

"10-625. **Physical and mental examinations and treatment.** The court may cause any person coming under its jurisdiction to be examined by a physician, psychiatrist, psychologist, appointed by the court.

Whenever a child, concerning whom a petition has been filed, appears to be in need of medical or surgical care, the court may order the parent, guardian or custodian to provide treatment for such child in a hospital or otherwise. If such parent, guardian, or custodian fails to provide such treatment, the court may, after due notice, enter an order therefor, and expense thereof, when approved by the court, shall be a charge upon the county; but the court may adjudge that the person or persons having the duty under the law to support such child pay part or all of the expenses of such treatment."

Amending clause.

Section 12. Section 10-626, R.C.M. 1947, is amended to read as follows:

Place of detention.

"10-626. **Place of detention.** *Whenever it is necessary for any peace officer to detain any child under eighteen (18) years of age, or, whenever by order of the court or the chief probation officer it is necessary to detain any such child, then such child shall be detained in a room or ward which has been approved by the juvenile court judge. Such room or ward must assure that children are kept separated by sex and that they are not permitted to associate in any way with adults who are also being confined in the same building or area.*"

Amending clause.

Section 13. Section 10-628, R.C.M. 1947, is amended to read as follows:

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"10-628. **Juvenile court committee.** In every county of the state the judge having jurisdiction *may* appoint a committee, willing to act without compensation, composed of not less than three (3) nor more than seven (7) reputable citizens, which committee shall be designated as a juvenile court committee; this committee shall be subject to the call of the judge to meet and confer with him on all matters pertaining to the juvenile department of the court, and shall act as a supervisory committee of detention homes, and in the selection of foster homes." Juvenile court committee.

Section 14. Section 10-630, R.C.M. 1947, is amended to read as follows: Amending clause.

"10-630. **Appeals.** In the case of a delinquent child an appeal to the supreme court may be taken by the *child or an aggrieved party* in the manner provided by law or by rule of court for appeal in civil cases In any case charging an adult with contributing to the delinqueney of a child, an appeal may be taken to the supreme court in the manner provided by law or by rule of court for appeal in criminal cases In any other case against an adult coming under this act an appeal may be taken to the supreme court in the manner provided by law or by rule of court for appeal in civil cases An appeal, in the case of a delinquent child, shall not suspend the order of the court, nor shall it discharge the delinquent child from the custody of that court or of the person, institution or agency to whose care such delinquent child shall have been committed unless that court shall so order Appeals.

On appeal the supreme court shall review the matter and may make such order as appears proper, including any necessary modification of the district court order."

Section 15. Section 80-2204, R.C.M. 1947, is amended to read as follows: Amending clause.

"80-2204. **Maximum age of commitment.** *No child shall be committed by any juvenile court to the Mountain View school, Pine Hills school or other juvenile facility who has attained the age of eighteen (18) years, except, however, that any person under twenty-one (21) years who prior to attaining the age of eighteen (18) years came under the jurisdiction of the juvenile court by reason of* Maximum age of commitment.

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delinquent conduct and whose adjudication of delinquency, including the finding that commitment to some institution was necessary is not made until after the child reaches the age of eighteen (18) years shall be committed to the department of institutions who shall then have the obligation to test an devaluate the person to determine the proper place of detention for the person who shall thereupon be confined at that institution until the person shall have attained the age of twenty-one (21) years unless sooner discharged by the department of institutions''

Repealing clause.

Section 16. Sections 10-604, 10-605, 10-609, 10-618, 10-619, 10-620, 10-632, 75-3001, and 75-3002, R.C.M. 1947, are repealed.

Approved: March 7, 1969.

CHAPTER NO. 263

A Bill Providing for an Election to Be Held to Determine Whether a Free Public Library Will Be Established in a City, Town, or County; Providing for the Calling of Such Election.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 44-219, R.C.M., 1947, (being the same as Section 2, Chapter 260 of the Session Laws of 1967), is hereby amended as follows:

Establishing public library—resolution —petition —election.

"44-219. **Establishing public library — resolution — petition** — *election.* A public library may be established in any county or city in *any* of the following ways:

(1) The governing body of any county or city desiring to establish and maintain a public library may pass and enter upon its minutes a resolution to the effect that a free public library is established under the provision of Montana laws relating to public libraries.

(2) By petition signed by not less than ten per centum (10%) of the resident taxpayers whose names appear upon the last completed assessment roll of the city or county being filed with the governing body requesting the establishment of a public library. The governing body

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of a city or county shall set a time of meeting at which they may by resolution establish a public library; the governing body shall give notice of the contemplated action in a newspaper of general circulation for two consecutive weeks giving therein the date and place of the meeting at which the contemplated action is proposed to be taken.

(3) Upon a petition being filed with the governing body and signed by not less than five per centum (5%) of the resident taxpayers of any city or county requesting an election the governing body shall submit to a vote of the qualified electors thereof, at the next general election, the question of whether a free public library shall be established. If such a petition is submitted for a city or town, the petition must be signed by resident taxpayers of said city or town. If such a petition is submitted to the county commissioners of a county asking for the establishment of a county library, the petition must be be signed by resident taxpayers of the county who reside outside the corporate limits of an incorporated city or town located in said county which may already have established a free public library for such city or town.

If such petition specifically asks that a special election be called, and such petition is signed by thrity-five per centum (35%) of the resident freeholders affected by such petition, then the governing body shall, upon receipt of such petition, immediately set a date for a special election, which date shall be as soon as the procedures for establishing a special election will allow.

If at such election, a majority of the electors voting on the question vote in favor of the establishment of a library, the governing body shall immediately take the necessary steps to establish and maintain said library, or to contract with any city or county for library service to be rendered to the inhabitants of such city, town or county."

Approved: March 7, 1969.

CHAPTER NO. 264

An Act Relating to the Purchase, Construction, Equipping and Improving of Revenue-Producing and Other Fa-

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cilities at Units of the Montana University System and the Collection of Charges, Admissions and Fees for the Use of Such Facilities: Amending Sections 75-216 and 82-3317, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-216, R.C.M. 1947, is amended to read as follows:

Powers of regents enumerated.

"75-216. **Powers of regents enumerated.** The regents of the Montana university system may:

(1) *Purchase, construct,* equip, *or* improve, at any unit of the Montana university system, any of the following types of revenue producing facilities: land, residence halls, dormitories, houses, apartments and other housing facilities; dining rooms and halls, restaurants, cafeterias and other food service facilities; student union buildings and facilities; and these other facilities specifically authorized by joint resolution of the legislative assembly.

(2) Rent housing facilities and provide food and other services to the students, officers, guests and employees of the unit at rates that will insure a reasonable net income over operating expenses and will provide for debt service and reserves, and provide for the collection of charges, admissions and fees for the use of other facilities by students and other persons, which charges, admissions and fees shall not be deemed to be tuition within the meaning of section 75-506 of the Revised Codes of Montana, 1947, and may be collected from any or all students. Student building fees established and in effect on which are imposed uniformly upon all students, or upon all of a specified class of students in attendance at any unit of the Montana university system, shall not be increased without authorization by law, unless absolutely necessary *and then only* to the extent *necessary* to pay principal or interest due on obligations for which such fees have been or shall be pledged, or to maintain reserves securing the payment of such obligations, in accordance with the indentures, resolutions, contracts or other instruments authorizing the issuance of such obligations; provided that at any unit of the Montana university system the aggregate amount of student building fees in effect

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on January 1, 1965, was less than fifty dollars ($50) per student per academic year, such fees may be increased or additional student building fees may be established, to an aggregrate amount not exceeding fifty dollars ($50) per student per academic year, and provided further that additional student building fees may be established or existing student building fees may be increased at the university of Montana, at Missoula, to an aggregate amount not exceed ninety dollars ($90) per student per academic year This limitation shall not affect admission or use charges, which are made to individual students or others in proportion to their use or occupancy of particular facilities or services and shall not affect any student building fees or other charges which are made to nonresident students as defined in section 75-506, R.C.M. 1947.

(3) Hold the net income derived from the operation of such facilities and the charges, admissions and fees so collected and devote the revenues from these sources to debt service and reserves, repairs, replacements and betterments of the facilities or, so far as such revenues have not been previously obligated for these purposes, to the acquisition, erection, equipping, enlarging or improvement of additional facilities of the types described in this section.

(4) Exercise full control and complete management of such facilities.

(5) Rent the facilities to other public or private persons, firms and corporations for such uses, at such times, for such periods and at such rates as in the regents' judgment will be consistent with the full use thereof for academic purposes and will add to the revenues available for capital costs and debt service.

(6) Do all things necessary to plan for, and to propose financing including all necessary loan applications, for classroom, laboratory, library, book store and other instructional facilities; office, record keeping, storage, equipment maintenance and other administrative and operational facilities; stadiums, field houses, armories, arenas, gymnasiums, swimming pools and other facilities for athletic and military instruction, exhibitions, games and contests; auditoriums, theaters, music halls and other as-

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sembly, theatrical, musical and entertainment facilities, hospital, nursing and other health instruction and service facilities; nurseries, barns, arenas, pavilions and other facilities for agricultural and livestock breeding, development and exhibition; parking lots and ramps and other parking facilities; and land needed for such facilities."

Amending clause.

Section 2. Section 82-3317, R.C.M. 1947, is amended to read as follows:

Supervision of construction of buildings.

"82-3317. **Supervision of construction of buildings.** (1) For the construction of a building costing more than ten thousand dollars ($10,000.00) the state controller shall:

(a) Review and approve all plans and working drawings prepared by architects.

(b) Approve all bond issues or other financial arrangements and supervise and approve the expenditure of all moneys.

(c) Under the supervision and with approval of the board of examiners, solicit, accept and reject bids and award all contracts to the lowest qualified bidder.

(d) Review and, with the consent of the board of examiners, approve all change orders.

(e) Accept the building when completed according to approved plans and specifications.

(f) Concur in construction projects where the proposed cost is less than ten thousand dollar ($10,000.00), but more than three thousand dollars ($3,000.00), provided that before any contract is approved for construction, alteration or improvement no less than three (3) separate informal bids shall be procured from bona fide contractors duly licensed as such in the state of Montana.

(g) Not require the provisions of Montana law relating to advertising, bidding or supervision where proposed construction costs are less than three thousand dollars ($3,000.00).

(2) It is the intent of the legislative assembly that student housing and other facilities constructed under the

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authority of the regents of the university of Montana are subject to the provisions of subsection (1) of this section."

Approved: March 7, 1969.

CHAPTER NO. 265

An Act to Amend Section 41-701, R.C.M. 1947, by Defining Standard Prevailing Rate of Wages Including Fringe Benefits for Health and Welfare and Pension Contributions, and Travel Allowance Provisions, by Providing for Approval of Public Works Contracts, and by Providing for the Notification of the Commissioner of Labor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 41-701, R.C.M. 1947, is amended to read as follows: Amending clause.

"41-701. **Preference of Montana labor in public works — wage scale — not to conflict with federal statutes.** In all contracts hereafter let the state, county, municipal, school, heavy highway or municipal construction, repair and maintenance work under any of the laws of this state there shall be inserted in each of said contracts a provision by which the contractor must give preference to the employment of bona fide Montana residents in the performance of said work, and that the said contractor must further pay the standard prevailing rate of wages *including fringe benefits for health and welfare and pension contributions, and travel allowance provisions* in effect *and applicable to* the county *or locality* in which the work is being performed. Standard prevailing rate of wages *including fringe benefits for health and welfare and pension contributions, and travel allowance provisions, applicable to the county or locality in which the work is being performed,* means those wages *including fringe benefits for health and welfare and pension contributions, and travel allowance provisions* which are paid in the county *or locality* by other contractors for work *of a similar character* performed in *that* county *or locality by each craft, classification or type of workman needed to complete a contract* under this act. *When work of a* Preference of Montana labor in public works—wage scale—not to conflict with federal statutes.

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similar character is not being performed in the county or locality, the standard prevailing rate of wages including fringe benefits for health and welfare and pension contributions, and travel allowance provisions shall be those rates established by collective bargaining agreements in effect in the county or locality for each craft, classification or type of workmen needed to complete the contract. No contract shall be let to any person, firm, association or corporation refusing to execute an agreement with the above-mentioned provisions in it; provided that, in contracts involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors and marines, and prohibiting as unlawful any other preference or discrimination among citizens of the United States. *All public works contracts under this act shall be approved in writing by the legal advisor of the contracting state, county, municipal corporation, school district, assessment district or special improvement district body or officer prior to execution by the contracting public officer or officers. The Montana commissioner of labor and industry shall undertake to keep and maintain copies of collective bargaining agreements and other information from which rates and jurisdictional areas applicable to public works contracts under this act may be ascertained. Whenever the employer is not signatory party to a collective bargaining agreement, those moneys designated as negotiated fringe benefits shall be paid to the employee as wages.''*

Approved: March 7, 1969.

CHAPTER NO. 266

An Act to Amend Section 72-627, R.C.M. 1947, Relating to the Duty of Railroads to Maintain Certain Facilities in Townsites, by Increasing the Minimum Population of Places Where Such Facilities Are Required and by Requiring Minimum Staffing of Such Facilities.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 72-627, R.C.M. 1947, is amended to read as follows: Amending clause.

"72-627. (6582) **Duty to furnish shipping facilities.** It is hereby made the duty of every person, corporation, and association operating a railroad in the state of Montana to maintain *and staff* facilities for shipment and delivery of freight, and to ship and deliver freight and accommodate passengers *in at least one location, preferably the county seat, in each county through which the line of the railway passes and* at any point upon the line of such railway where there is a *city or town having a population, according to the last federal decennial census, of not less than one thousand people, provided, however, that this act shall not require the maintenance and staffing of such facilities in any county or at any city or town in which such facilities were not maintained and staffed on the effective date of this act. Nothing in this section shall be construed to authorize the discontinuance of any facility presently established in any city, town or other location having a population of less than one thousand people without a hearing before the board of railroad commissioners as provided by law.*" Duty to furnish shipping facilities.

Approved: March 7, 1969.

CHAPTER NO. 267

An Act to Define Printing in Montana as an Act of Reproducing a Design on a Surface by Any Process.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in the Constitution and laws of the state of Montana, printing is the act of reproducing a design on a surface by any process. "Printing."

Approved: March 7, 1969.

CHAPTER NO. 268

An Act to Amend Sections 16-2050, and 11-1310, Revised Codes of Montana, 1947, to Require Interest on Invest-

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ments and Accrued Interest on the Sale of Bonds by a City, Town, or County to Be Credited to the Sinking Fund of Said City, Town, or County; Amending Section 75-3806, R.C.M. 1947, by Providing That Interest, Except Interest on the Sale of Bonds Accrued in the Period Between the Date of Issue and the Time of Purchase Which must Be Credited to the Sinking Fund, Earned From Investment of Money From the Sale of Bonds by a Common School District or High School for the Purpose of Construction, or From Investment of Money From Sale of Bonds or Taxation for a Building Reserve Fund, May Be Credited to Either the Sinking Fund or to the Fund From Which the Money Was Withdrawn and May Be Used for Furnishing or Equipping School Buildings.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-2050, Revised Codes of Montana, 1947, is amended to read as follows:

Investment of county money and school money.

"16-2050. **Investment of county moneys in county warrants and investment of school district or county high school moneys.** (1) Except as provided in subsection (2) of this section, whenever the county has under its control any moneys, for which there is no immediate demand, in any special fund subject to deposit which in the judgment of the board of county commissioners it would be advantageous to invest in county warrants, the county commissioners are authorized in their discretion to direct the county treasurer to purchase county warrants of the same county, thereafter issued against funds in which there is not sufficient money to pay such county warrants at the time of issuance, and in case of such purchase the county commissioners shall designate the fund or funds, to be so invested, and shall fix the amount thereof, and shall also designate the county warrant or warrants which are to be purchased by such funds. The county clerk and recorder shall thereupon cause to be attached to or stamped, written or printed upon the warrants so ordered to be purchased a notice to the effect that the county will exercise its preference right to purchase such warrant. The county treasurer shall thereafter when such county warrant is presented to him, purchase the same out of the proper fund as designated by the board of coun-

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ty commissioners, and the warrant so purchased shall be registered as other county warrants, and bear interest as provide by law. When the designated amounts have been invested the county treasurer shall notify the county clerk and recorder. Public funds realized from the sale of bonds by a county for the purpose of constructing public buildings, or for other construction, may be invested in any time or savings deposits, United States certificates of indebtedness, United States treasury notes or United States treasury bonds having a maturity date of one (1) year or less when emergency conditions, beyond the control of the county commissioners, exist which preclude the construction of the projects for which the bonds were issued at the time such investments are made. *Interest earned from such investments, including interest on the sale of bonds accrued in the period between the date of issue and the time of purchase, shall be credited to the sinking fund of the county, notwithstanding the provisions of subsection (6) of section 16-2618.*

(2) Whenever the county has under its control any moneys realized from the sale of bonds by a school district or county high school for the purpose of construction, for which there is no immediate demand, which in the judgment of the governing body of the school district or county high school it would be advantageous to invest in any time or savings deposits or in short term obligations of the United States of America, such governing body may in its discretion direct the county treasurer to make such investments. Interest earned from such investments, *except interest on the sale of bonds accrued in the period between the date of issue and the time of purchase which must be credited to the sinking fund, may* be credited to the sinking fund of the said school district or county high school, *provided that in the event construction of said buildings is delayed for a period longer than six (6) months due to court action or other causes beyond the control of the trustees, the trustees may direct that interest earned be credited to the fund from which the money was withdrawn. The trustees may authorize expenditures from interest earned, except as provided above, for furnishing and equipping the buildings for which the bonds were sold.*

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Amending clause.

Section 2. Section 11-1310, Revised Codes of Montana, 1947, is amended to read as follows:

Investment of city or town moneys.

"11-1310. **Investment of city or town moneys in city or town warrants and approved securities.** (1) Except as provided in subsection (2) of this section, whenever the city or town has under its control any moneys, for which there is no immediate demand, in any fund which, in the judgment of the city or town council, it would be advantageous to invest in city or town warrants, the city or town council is authorized in their discretion to direct the city or town treasurer to purchase legally issued city or town general obligation warrants of the same city or town, thereafter issued against funds in which there is not sufficient funds to pay such city or town warrants at the time of issuance, and in case of such purchase, the city or town council shall designate the fund or funds, to be so invested, and shall fix the amount thereof, and shall also designate the city or town warrant or warrants which are to be purchased by such funds. The city or town clerk shall thereupon cause to be attached to, or stamped, written or printed upon the warrants so ordered to be purchased a notice to the effect that the city or town will exercise its preference right to purchase such warrant. The city or town treasurer shall thereafter, when such city or town warrant is presented to him, purchase the same out of the proper fund as designated by the city or town council, and the warrant so purchased shall be registered as other city or town warrants, and bear interest as provided by law. When the designated amounts have been invested the city or town treasurer shall notify the city or town clerk.

(2) Whenever the city or town has under its control any moneys realized from the sale of bonds, for which there is no immediate demand, which in the judgment of the city or town council it would be advantageous to invest in any time or savings deposits, United States certificates of indebtedness, United States treasury notes or United States treasury bonds having a maturity date of one (1) year or less, the city or town council is authorized in their discretion to direct the city or town treasurer to make such investments. Interest earned from such investments, *including interest on the sale of bonds ac-*

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crued in the period between the date of issue and the time of purchase, shall be credited to the bond sinking fund of the city or town."

Section 3. Section 75-3806, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-3806. **Building reserve fund — election.** (1) The board of trustees of any school district may, whenever a majority thereof so decide, submit to the electors of the district the question whether the board shall be authorized to create a building reserve fund of a certain amount, to be raised within a specified number of years, for the purpose of erection, equipping or enlargement of school buildings, teacherages, garages, or other buildings needed for school purposes. The reserve fund shall not exceed five (5)percent of the value of the taxable property in the district. If created, the fund shall be held by the county treasurer and by him credited to the school district creating same, to be used for the purposes specified in this section and not for any other purpose. Whenever the county has under its control any moneys credited to the fund from taxation or from the sale of bonds by a school district for a building reserve fund for which there is no immediate demand, which in the judgment of the governing body of the school district it would be advantageous to invest in any interest-bearing deposits in a state or national bank insured by the F.D.I.C., or obligations of the United States of America, either short-term or long-term, such governing body may in its discretion direct the county treasurer to make such investments. Interest earned from such investments, *except interest on the sale of bonds accrued in the period between the date of issue and the time of purchase which must be credited to the sinking fund, may* be credited to the sinking fund of the school district *or to the fund from which the money was withdrawn. The trustees may authorize expenditures from interest earned, except as provided above, for furnishing and equipping the buildings for which the bonds were sold.* Building reserve fund—election.

(2) The election shall be held in the manner prescribed for election on the issuance of school bonds, except that the ballots must contain the words "building reserve fund, yes" and "building reserve fund, no." If the ma-

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jority of the votes at the election are "building reserve fund, yes," the clerk of the district shall immediately notify the board of county commissioners and the county treasurer, and the board of county commissioners shall thereafter levy annually the tax necessary to raise the funds for the number of years specified. The funds shall be kept in the custody of the county treasurer until sufficient funds have been raised to commence the building contemplated by the school district.

(3) At any time after the raising of a building reserve fund has been commenced by any school district, the board of school trustees may submit to the electors of the district, as provided by law, the question whether the board shall be authorized to issue bonds of the district for the balance of the building reserve fund. If both reserve funds and bond funds are needed for the purposes authorized herein, the reserve funds must be used prior to using funds for the issuance and sale of bonds. If the bonds are authorized, the annual building reserve fund levy shall be discontinued by the board of county commissioners when the levy is commenced for payment of the bonds."

Approved: March 7, 1969.

CHAPTER NO. 269

An Act Amending Sections 82-3001, 82-3002 and 82-3003, R.C.M. 1947, Relating to the Interdepartmental Advisory Council, by Adding New Members, Requiring Meetings Every Sixty Days and Giving the Governor Notice Thereof; Requiring Written Summary Reports by Each Agency Regarding Water Problems in the State; Delivering a Copy of the Reports to the Governor and Requiring Minutes of Regular Meetings.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-3001, R.C.M. 1947, is amended to read as follows:

Creation of interdepartmental advisory council.

"82-3001. **Creation of interdepartmental advisory council.** There is hereby created an interdepartmental advisory council, to be known as the council on natural

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resources and development (hereinafter referred to as the "council"). It shall be composed of the following: The commissioner of state lands and investments, director of the department of state fish and game, state forester, secretary of the grass conservation commission, director of the Montana water resources board, executive secretary of the oil and gas conservation commission, director of the state bureau of mines and geology, state highway engineer, commissioner of agriculture, executive officer of the state board of health, director of planning and economic development, executive secretary of the state soil conservation committee, *chairman of the outdoor recreation advisory committee, a member of the water well contractor's examining board, the secretary of the water pollution council and a member of the sanitarians registration council.*"

Section 2. Section 82-3002, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3002. **Organization of the council.** The council shall organize within thirty (30) days after this act shall take effect by the election of a secretary and such other officers as it may deem necessary; the director of the Montana Water Resources Board shall be the permanent chairman of the council. Thereafter, it shall hold meetings *at least once every sixty (60) days* at the seat of government in Helena, Montana, and shall hold additional meetings if and when the governor shall require it to do so. *Notice of the meetings shall be given to the governor and representatives of the press by the secretary of the council.*" Organization of the council.

Section 3. Section 82-3003, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-3003. **Powers and duties of the council.** The duties of the council shall be: Powers and duties of the council.

(a) Joint consideration of the administrative problems and legislative needs which they have in common particularly, but not exclusively, in regard to natural resources, forestry, land management, state parks, fish and game work, highway construction, and water pollution and floods.

(b) The making of studies for the purpose of devising ways and means for effective coordination of their work,

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elimination of duplication and overlapping and increased efficiency of administration.

(c) The preparation of reports and recommendations in regard to matters which the governor *shall* bring to their attention or which, in their judgment, ought to be brought to the attention of the governor.

(d) At each regular meeting of the council, each member of the council shall make a written summary report of the programs or activities of his state agency with regard to water problems in the state. A copy of each report shall be delivered to the governor and to the secretary of the council prior to its regular meetings.

(e) Said meetings shall be open to interested members of the legislature.

(f) Immediately following each meeting, the secretary of the council shall prepare summary minutes and send copies to each member and to the governor."

Approved: March 7, 1969.

CHAPTER NO. 270

An Act to Amend Section 92-204 of the Revised Codes of Montana 1947, to Clarify and Define in What Cases Actions may be Brought Against Co-Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-204, R.C.M. 1947, is amended to read as follows:

Election of employer and employee to come under act—action against third party causing injury.

"92-204 (2839) **Election of employer and employee to come under act—action against third party causing injury.** Where both the employer and employee have elected to come under this act, the provisions of this act shall be exclusive, and such election shall be held to be a surrender by such employer *and the servants, and employees of such employer* and such employee, as *among* themselves, of their right to any other method, form or kind of compensation, or determination thereof, or to any other compensation, or kind of determination thereof, or cause of action, action at law, suit in equity, or statu-

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tory or common-law right or remedy, or proceeding whatever, for or on account of any personal injury to or death of such employee, except as such rights may be hereinafter specifically granted; and such election shall bind the employee himself, and in case of death shall bind his personal representative, and all persons having any right or claim to compensation for his injury or death, as well as the employer, *and the servants and employees of such employer,* and those conducting his business during liquidation, bankruptcy or insolvency. Provided, that whenever such employee shall receive an injury while performing the duties of his employment and such injury or injuries, so received by such employee, are caused by the act or omission of some persons or corporations other than his employer, *or the servants or employees of his employer,* then such employee, or in case of his death his heirs or personal representatives, shall, in addition to the right to receive compensation under the Workmen's Compensation Act, have a right to prosecute any cause of action he may have for damages against such persons or corporations, causing such injury. *Further provided, that whenever such employee shall receive an injury while performing the duties of his employment and such injury or injuries, so received by such employee, are caused by the intentional and malicious act or omission of a servant or employee of his employer, then such employee, or in case of his death, his heirs or personal representatives, shall, in addition to the right to receive compensation under the Workmen's Compensation Act, have a right to prosecute any cause of action he may have for damages against such servants or employees of his employer, causing such injury.* In the event said employee shall prosecute an action for damages for or on account of such injuries so received, he shall not be deprived of his right to receive compensation but such compensation shall be received by him in addition to and independent of his right to bring action for such damages, provided, that in the event said employee, or in case of his death, his personal representative, shall bring such action, then the employer or insurance carrier paying such compensation shall be subrogated only to the extent of either one-half (½) of the gross amount paid at time of bringing action and the amount eventually to be awarded to such employee as compensation under the workmen's compen-

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sation law or one-half (½) of the amount recovered and paid to such employee in settlement of, or by judgment in said action, whichever is the lesser amount. All expense of prosecuting such action shall be borne by the employee, or if the employee shall fail to bring such action or make settlement of his cause of action within six (6) months from the time such injury is received, the employer or insurance carrier who pays such compensation may thereafter bring such action and thus become entitled to all of the amount received from the prosecution of such action up to the amount paid the employee under the Workmen's Compensation Act, and all over that amount shall be paid to the employee. In the event that the amount of compensation payable under this act shall not have been fully determined at the time such employee shall receive settlement of his action, prosecuted as aforesaid, then the industrial accident board shall determine what proportion of such settlement the insurance carrier would be entitled to receive under its right of subrogation and such finding of the board shall be conclusive. Such employer or insurance carrier shall have a lien on such cause of action for one-half (½) of the amount paid to such employee as compensation under the Workmen's Compensation Act or one-half (½) of the amount recovered and paid to such employee in settlement of, or by judgment in said action, whichever is the lesser amount, which shall be a first lien thereon."

Approved: March 7, 1969.

CHAPTER NO. 271

An Act Amending Sections 68-102, 68-501, 68-702, 68-801, 68-901 and 68-1307, R.C.M. 1947, Relating to the Public Employers' Retirement System to Provide for Full Retirement for Public Employees at Age Sixty, to Increase the Employer Contribution to the Public Employees' Retirement Fund to Four Per Cent and Providing for Changes in the Method of Computing Retirement Allowances of a Member of the Legislative Assembly and Lieutenant Governor of Montana.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 68-102, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-102. **Definitions.** The following words and phrases used in this act, unless a different meaning is plainly indicated in the context shall have the following meanings:

(a) "Retirement system" shall mean the "public employees' retirement system" created by this act. "Retirement system."

(b) "Contracting city" shall mean any municipal corporation in the state which has elected to have all, or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. "Contracting city."

(c) "Contracting county" shall mean any county in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to counties, wherever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "county," "contracting county," "county employee," "county clerk," "county" or "board of county commissioners" of any county. "Contracting county."

(d) "Public agency" shall mean any public district, local housing authority, or local authority, or public body whatsoever. "Public agency."

(e) "Contracting public agency" shall mean any public agency in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to public agencies, whenever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "public agency," "contracting public agency," "public agency employee," "secretary of governing board or analo- "Contracting public agency."

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gous authorized employee of the public agency," "public agency," or "governing board or head of a public agency not managed by a board."

"State employee." (f) "State employee" means any person employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor and from the fees or income of any department or agency of the state, excepting all elective officers and persons directly appointed by the governor, who do not elect membership under the provisions of section 68-203, court commissioners, and members of any state board or commission who serve the state intermittently and are paid on a per diem basis (except as herein otherwise provided). "State employee" means further any employee under direct state supervision or functional state supervision as certified by the head of the state department concerned and approved by the board of administration of the public employees' retirement system, who is paid either fully or in part from federal funds, but is not subject to federal retirement system.

"Head of department." (g) "Head of department" means the head of any department, institution or branch of the state service which directly pays salaries out of its income or which prepares, approves, and submits salary statements of its employees to the state board of examiners, state auditor and state treasurer for payment.

"Member." (h) "Member" shall mean any person included in the membership of the retirement system set forth in section 68-202 and not excluded in section 68-203.

"Board." (i) "Board" shall mean the "board of administration" created in this act.

"Retirement fund." (j) "Retirement fund" shall mean the "public employees' retirement fund" created and established in section 68-405.

"State service." (k) "State service" shall mean service rendered as an employee, hired or appointed, of the state or its university or any of the colleges, schools, components or units thereof for the purpose of this act, service rendered as an employee of any contracting city for compensation, and, for the purposes of this act, a member shall be considered as being in "state service" only while he is receiving compen-

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sation from the state, or its university as aforesaid or the contracting city for such service, except as provided in subdivision (f) of section 68-501, *or, while serving as a member of the legislative assembly or as Lieutenant Governor of the state of Montana whether or not he receives compensation from the state.*

"Prison employee."

(l) "Prison employee" for the purpose of the retirement system, means persons appointed by the warden of the state prison or by the state board of prison commissioners.

"Prior service."

(m) "Prior service" shall mean all state service rendered before the first day of July, 1945; and all state service rendered as an employee of a contracting city before the effective date of the city's participation in the retirement system, and allowable as provided in subdivision (h), section 68-501. Employees of a contracting city shall receive credit for prior service only if the election of the contracting city to participate in the Public Employees' Retirement Act is filed with the board on or before, but not after July 1, 1950. Notwithstanding the sentence preceding, "prior service" as applied to a person, employed by the state, including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or as applied to a person who became a member prior to said amendments, because of a change in the employment status to a full-time basis, shall mean all state service rendered before the effective date of said membership. *Prior service includes all prior service as a member of the legislative assembly or as Lieutenant Governor of the state of Montana. With respect to the optional retirement provisions set forth in section 68-901 (m), R.C.M. 1947, "prior service" shall mean all service rendered before July 1, 1945.*

"Continuous service."

(n) "Continuous service" as applied to "prior service", *except as to a member of the legislative assembly or a Lieutenant Governor of the state of Montana,* shall mean all prior service, regardless of interruptions in such service, and as applied to service as a member shall mean uninterrupted employment in state service except as provided by subdivision (h) section 68-501, and, except that when for any cause whatever, a member discontinues state service but subsequently re-enters such service within three (3) years from the date of the discontinuance, such in-

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terruption shall not be deemed to break the continuity of service.

"Beneficiary." (o) "Beneficiary" shall mean any person in receipt of a pension, annuity, retirement allowance, death benefit or any other benefit provided by this act.

"Compensation." (p) "Compensation", *except as applied to a member of the legislative assembly or a Lieutenant Governor of the state of Montana, electing the optional retirement provisions of section 68-901 (m), R.C.M. 1947,* shall mean the remuneration paid in cash out of funds controlled by the state, the university or the contracting city, plus the monetary value as determined by the board of administration, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished by the state, the university, or the contracting city to a member, in payment of services.

"Compensation earnable." (q) "Compensation earnable" by a member, *except as applied to a member of the legislative assembly or a Lieutenant Governor of the state of Montana,* shall mean the average monthly compensation as determined by the board upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, it being assumed that during any absence said member was in the position held by him at the beginning of the absence; and provided that compensation received by a member subsequent to July 1, 1952, in excess of five thousand dollars ($5,000.00) per annum may be used as a basis of compensation for the purpose of this retirement system if (a) he contributes normal contributions on the excess of such salary subsequent to July 1, 1952, over five thousand dollars ($5,000.00) to his individual account in the annuity savings fund and (b) he contributes three per cent (3%) of the excess of his salary subsequent to July 1, 1952, over five thousand dollars ($5,000.00) to the pension accumulation fund of the retirement system.

"Final compensation." (r) "Final compensation" shall mean the average annual compensation earnable by a member during any three (3) consecutive years upon which normal contributions have been made, said years to be chosen by the member. *A member of the legislative assembly, a speaker of the house of representatives and a Lieutenant Governor of the*

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state of Montana electing the optional retirement provisions of section 68-901 (m), R.C.M. 1947, may include as annual compensation all or any portion of the product of his compensation per day as a member, speaker or president of the senate multiplied by three hundred sixty (360) for the purpose of computing his final compensation if he otherwise complies with the provisions of section 68-901 (m), R.C.M. 1947.

"Regular interest."

(s) "Regular interest" shall mean the average interest earned on investments made hereunder, compounded at each June thirtieth, subject to subdivision (j) section 68-501 plus such additional interest as the board may credit from year to year in accordance with the provisions of this act.

"Normal contributions."

(t) "Normal contributions" shall mean contributions by members under the provisions of section 68-701 (g) to (n), both inclusive.

"Additional contributions."

(u) "Additional contributions" shall mean contributions by members under the provisions of section 68-701 (k).

"Accumulated normal contributions."

(v) "Accumulated normal contributions" shall mean the sum of all the normal contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulated additional contributions."

(w) "Accumulated additional contributions" shall mean the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulation contributions."

(x) "Accumulated contributions" shall mean accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

"Pension."

(y) "Pension" shall mean payments for life derived from contributions made from the state controlled funds, or in the case of members from contracting cities from the funds of such cities, as provided in this act.

"Annuity."

(z) "Annuity" shall mean payments for life derived from contributions made by a member as provided in this act.

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"Retirement allowance." (aa) "Retirement allowance" shall mean the pension plus the annuity.

"Death allowance." (ab) "Death allowance" shall mean payments for life, or until remarriage, or until the youngest child shall attain the age of eighteen (18) years, as provided in section 68-1101.

"Actuarial equivalent." (ac) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the board, and interest at a rate to be annually determined by the retirement board compounded annually, subject to subdivision (j), section 68-501.

"Retirement." (ad) "Retirement" shall mean withdrawal from active service with a retirement allowance granted under the provisions of this act.

"Disability." (ae) "Disability" and "incapacity for performance of duty" referred to herein as a basis of retirement, shall mean disability of permanent duration or disability of extended and unceratin duration, as determined by the board on the basis of competent medical opinion.

"Actuary." (af) "Actuary" shall mean the actuary regularly and continuously employed on a full or part-time basis, by the board of administration.

"Benefit." (ag) "Benefit" shall be the retirement allowance, death allowance, death benefit or refund of accumulated contributions provided by this act.

"Fiscal year." (ah) "Fiscal year" shall mean any year commencing with July first and ending June thirtieth next following."

Amending clause. Section 2. Section 68-501, R.C.M. 1947, is amended to read as follows:

Board of administration. "68-501. **Board of administration.** The Board of administration shall consist of five (5) members appointed by the governor, three (3) of which members shall be public employees and shall be members of the retirement system, and two (2) of which shall be members at large. Terms of office shall be for five (5) years provided, however, that those first appointed after this act takes effect shall be for terms, respectively, of one (1), two (2),

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three (3), four (4), and five (5) years but their successors shall hold office for terms of five (5) years; provided not more than one (1) employee member of the retirement board shall be an employee of the same department, bureau or agency of the state or contracting public agency. Members of the board shall be paid their actual and necessary expenses and those members of the board who are not members of the public employees' retirement system shall be entitled to receive in addition to actual and necessary expenses compensation at the rate of ten dollars ($10.00) per day.

The attorney general is hereby designated legal counsel for the board.

Vacancy on board—how filled.

(a) Vacancy on board—how filled. Any vacancy occurring ninety (90) days or more before the expiration of the term of any member of the retirement board shall be filled by appointment by the governor. The person thus appointed shall serve for the remainder of the unexpired term.

Rules and regulations.

(b) The board may establish such rules and regulations as it deems proper, within the limitations of this act and for its proper administration, operation and enforcement. The board shall elect one (1) of its members president, and shall appoint and fix the compensation of a secretary who shall have the power to administer oaths, and other necessary employees. It shall maintain its office in the city of Helena. A quorum of the board shall be three (3) members. The board may appoint a committee of one or more of its members, which shall have authority to perform routine acts, such as retirement of members and fixing of retirement allowances, approval of death claims and correction of records necessary in the administration of the system in accordance with the provisions of this act and rules and regulations of the board. All expenses of the administration of this act in excess of amount provided by the one dollar ($1.00) membership fee shall be a charge on the appropriation made from the general fund of the state.

Authority of board—eligibility of members.

(c) The board shall determine who are employees within the meaning of this act and shall be the sole authority and judge under this act as to the conditions under which persons may be admitted to and continue to receive

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benefits under the retirement system, and shall have exclusive control of the administration and investment of the fund. As soon as practical after the close of each fiscal year, the board shall file with the governor a report of its work for such fiscal year.

(d) Subject to the following and to all other provisions of this act, and such rules and regulations as it may adopt in pursuance thereof, the board shall determine and may modify allowances for service and disability.

(e) The board of administration shall fix and determine how much service rendered in any fiscal year shall be the equivalent of a year of service and parts thereof, but shall credit one (1) year for two hundred and fifty (250) or more days of service rendered by employees on a per diem basis and one (1) year for ten (10) months or more of service rendered by employees on a monthly basis, but not more than (1) year for all service in any fiscal year. In determining the credit to be granted for service rendered on a part-time basis, for purposes of calculating retirement allowances, the service shall be reduced to a full-time basis according to the service required, in the next preceding sentence, for credit for one (1) year of service. In calculating benefits based on service so determined, except in calculating the additional pension provided in subdivision (g) of section 68-901 compensation earnable shall be taken as the compensation which would be earnable if the employment had been on a full-time basis, and with a compensation derived by multiplying the member's compensation by ratio of full time to the time he was required by his employment to engage in his duties. In calculating the credit to be granted for service rendered on a part-time basis, for purposes of determining qualifications for retirement, and of calculating benefits payable upon death before retirement, the service required in this paragraph for credit for a year of service shall not be used, but instead, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his duties the full amount of time he was required by his employment to be so engaged. Credit for fractional years will be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, by the time

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he was required by his employment to be so engaged. *A member of the legislative assembly and a Lieutenant Governor of the state of Montana shall, for purposes of calculating retirement allowances and benefits be credited with a year of service for each year so served. Credit for fractional years shall be granted on the basis of the fraction derived by dividing the number of days so served by 250.*

(f) Time during which a member is absent from public service without compensation shall not be allowed in computing service; *except that time during which a member is a member of the legislative assembly or a Lieutenant Governor of the state of Montana shall be considered as time spent in public service for the purpose of qualification for and calculation of all benefits provided for in this act;* except that time during which a member is absent from public service by reason of having been ordered on duty with the armed forces of the United States, or by reason of voluntary service by the member in said forces or on ships operated by or for the United States government, or by members assigned directly to the Department of War or Defense for duties pursuant to the national defense efforts, having been granted a leave of absence by the agency, department of state, county or city under which said member is employed for such purpose, either during a war involving the United States as a belligerent or in any other national emergency, and for ninety (90) days thereafter shall be considered as time spent in public service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits unless the member elects to contribute and contributes under the retirement system. Any member so absent and until his return within the said ninety (90) days may resign from the system. Any member so absent shall have the right to contribute to said system, either during his service with the armed forces of the United States or in the merchant marine of the United States, and ninety (90) days thereafter or upon his return to the state service, at times and in a manner fixed by the board of administration, amounts equal to the contribution which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence. If he does so contribute he shall receive credit for public service for such time

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in the same manner as if he had not been absent from public service. Whenever a member elects to continue his contributions, the state or the contracting city, or county or other agency shall thereupon contribute an amount equal to that which it would have contributed under section 68-1307 or under the contract between the board and the legislative body, as the case may be, if the member had not been absent from state service.

Any member so absent or any member absent from state service by reason of having been ordered by an authorized official of the state of Montana or the United States, to duties outside state service shall be paid upon his request, his accumulated contributions. Such payment shall terminate any election by said member under this section to contribute.

Time during which a member is absent from public service by reason of injury or illness determined within one (1) year after the end of such absence as arising out of and in the course of his employment, shall be considered as spent in public service, for the purpose of qualification for retirement and death benefits, but not for the calculation of retirement benefits, except as he received compensation, as defined in this act and as distinguished from disability indemnity under the Workmen's Compensation Act during the absence, and then only to the extent of compensation received.

Filing of status.

(g) Each employee shall file with the board of administration such information affecting his status as a member of the retirement system as the board may require.

Prior service credit.

(h) Credit for prior service shall be granted to each person other than persons who are employees of the university or of a contracting city at the time of becoming members of the retirement system, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1946, or within three (3) years after last rendering prior service. Credit for prior service shall be granted to each person who is employed by the university at the time of becoming a member of the retirement system regardless of whether he had been retired under the system prior to the effective date hereof, who has rendered such service as defined in this act, and who has become a member of the retire-

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ment system on January 1, 1946, or within three (3) years after last rendering prior service.

Credit for prior service shall be granted to each person who is employed by a contracting city at the time of becoming a member of the system, who has rendered such service as defined in this act, and who has become a member of the retirement system within three (3) years after last rendering prior service. Notwithstanding the three (3) sentences next preceding, credit for prior service shall be granted to each person employed by the state including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or who became a member prior to said amendments, because of a change in status to a full-time basis. The credit for prior service to be granted persons employed by a contracting city who are included under the retirement system shall be established by contract between the board and the legislative body of such city; and such credit as may be granted to a person shall be in the form of a percentage, not to exceed the analogous percentage applicable to employees of the state, for each year of prior service. Prior service so credited shall be the basis for a retirement allowance or benefit as provided in this act only if the membership in the retirement system continues unbroken until retirement or retirement allowance or until the granting of such other benefit; provided, that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon re-entrance into public service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in public service as defined in this act.

Credit for any prior service, not previously granted, shall be granted to a member upon request for retirement provided that the member has a total of not less than ten (10) years of creditable state service of which not less than three (3) years have been as a contributing member of the retirement system and the retirement allowance does not include credit for all state service prior to July 1, 1945, or in the case of a contracting city prior to the date of the contract, or July 1, 1947, whichever is earlier. *Credit for prior service shall be granted to a*

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person who has served as a member of the legislative assembly or as a Lieutenant Governor of the state of Montana. Proper certification of such service must be furnished.

Powers and duties of board.

(i) The management and control of the retirement system shall be vested in the board of administration, and it shall exercise the following powers and perform the following duties:

(j) The board of administration shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this act. On July 1, 1946, and at the end of every two-year period thereafter, it shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries under the provision of this act, and shall further cause to be made an actuarial valuation of the assets and liabilities of the public employees' retirement fund herein created, and from time to time shall determine the rate of interest being earned on the said retirement fund. Upon the basis of any or all of such investigation, valuation, and determination, said board shall adopt such mortality, service and other tables and such interest rate, in lieu of the interest rate specified herein, or any of such items as it shall deem necessary, and shall make such revision in rates of contributions of members as it may deem necessary to comply with the provisions of section 68-701. No adjustment shall be included in the new rates for time prior to the effective date of such revision.

(k) The board shall credit contributions of members of the state and contracting cities with interest at the rate being used under the system on the effective date hereof, compounded each June 30, subject to the foregoing subdivision (j) of section 68-501. At the end of each fiscal year, beginning with the second fiscal year of the operation of the retirement system, it may credit to all contributions held in the retirement fund on June 30 of the then current fiscal year, such interest in excess of said rate provided herein as it may deem proper in the light of the earnings of the retirement fund during such fiscal year, but such additional interest credited during any fiscal year shall not be greater than the excess of said earnings over the interest otherwise credited to contributions

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during that year. Interest at said rate, compounded annually, subject to said foregoing subdivision (j) hereof, shall be used in the calculation of benefits under any mortality table adopted by the board, regardless of any additional interest allowed on contribution under this paragraph.

In addition to other records and accounts, it shall keep such records and accounts as may be necessary to show at any time:

The total accumulated contributions of members.

The total accumulated contributions of retired members less the annuity payments made to such members.

The accumulated contributions of the state and of contracting cities held for the benefit of members on account of service rendered as members of the retirement system.

All other accumulated contributions of the state and of contracting cities which shall include the amounts available to meet the obligation of the state and of the contracting cities, respectively on account of benefits that have been granted to retired employees and on account of prior service of members.

(l) In addition to rendering the annual report to the governor required by subsection (c) of this section, it shall cause to be published annually a financial statement showing an actuarial valuation of the assets and liabilities of the retirement system created by this act and a statement as to the accumulated cash and securities in the retirement fund as certified by the state auditor, but until all prior service is verified, the board of administration may omit from the financial statement published annually, assets and liabilities resulting from such prior service, and may include assets and liabilities on account of service rendered as members in amounts equal only to accumulated contributions held on account of such service."

Section 3. Section 68-801, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"68-801. **Voluntary service retirement.** (a) Retirement of a member for service shall be made by the board **Voluntary service retirement.**

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of administration upon his attaining the age of *fifty-five (55)* years or more and upon his completion of ten (10) or more years of public service credited under this act and the filing of his written application to the board, subject to the provisions of section 68-901; and provided, however, that the service retirement allowance shall commence on the day following the member's last day of state service or on the first day of the month in which his application is filed with the board of administration, whichever is later.

(b) Notwithstanding any other provision of this act, any person who has been retired for service (as distinguished from disability) under the provisions of this act may be employed in state service in accordance with the laws governing such service in the same manner as a person who has not been so retired.

(c) Any person so employed shall be considered as reinstated from retirement and his retirement allowance shall be canceled forthwith. Upon subsequent retirement he shall be entitled to receive a benefit, as provided in section 68-901, which shall be based upon his creditable service accumulated at the time of his previous retirement plus any creditable service accumulated subsequent to his re-employment."

Amending clause.

Section 4. Section 68-901, R.C.M. 1947, is amended to read as follows:

Service retirement allowance.

"68-901. **Service retirement allowance.** A member who has reached his *sixtieth* birthday upon retirement from service is entitled to receive a service retirement allowance which shall consist of either an allowance as provided in subsections (a) through (f) of this section, or an allowance as provided in subsection (g) of this section at the option of the member:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension, purchased by the contributions of the state, or the contracting city, equal to one (1) that portion of the annuity purchased by the accumulated normal contributions of the member, or (2) one quarter (¼) of his average final compensation provided his total state

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service is at least thirty-five (35) years, otherwise, a pension which shall be one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of state service; whichever is greater.

(c) An additional pension, purchased by the contributions of the state, for members other than persons who are employees of the university at the time of becoming members, and members employed by a contracting city. Such additional pension shall be equal to one-seventieth (1/70) of the member's final compensation, multiplied by the number of years of prior service except that if a member retires before attaining the age of *sixty (60)* years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age *sixty (60)* will purchase at the actual age of retirement.

(d) If a member retires before attaining the age of *sixty (60)* years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this section as deferred to age *sixty (60)* will purchase at the actual age of retirement.

(e) An additional pension, purchased by contributions of the state, for members who are also employees of the university at the time of becoming members, said additional pension to accrue from the date of retirement under the system regardless of whether said retirement was prior to the effective date hereof. Such additional pension shall be equal to one-seventieth (1/70) of the average annual compensation earnable by him during the three (3) years preceding retirement, multiplied by the number of years of prior service credited to him, except that if a member retires before attaining the age of *sixty (60)* years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age *sixty (60),* will purchase at the actual age of retirement. If, however, a member who is employed by the university at the time of becoming a member, shall not have rendered state service before January 1, 1946, his additional pension shall be based upon one-seventieth (1/70) of the average compensation earnable by him during the first year of the state service, or such portion thereof as he

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may have served before January 1, 1946, multiplied by the number of years of prior service credited to him.

(f) An additional pension on account of prior service, purchased by the contributions of the contracting city for members who are also employees of a contracting city as may be provided for under the contract between the board and the contracting city.

(g) A member who reaches his *sixtieth* birthday upon retirement from service is entitled to receive a service retirement allowance which shall consist of *a retirement allowance which shall be equal, at age sixty (60) to one-seventieth (1/70) of his final compensation, multiplied by the number of years of service. A member retiring prior to age of sixty (60) shall be entitled to a retirement allowance which shall be the actuarial equivalent of that portion of his retirement allowance based on his credited service prior to the date of actual retirement and which would have been payable to him at age sixty (60).*

Minimum guarantee.

MINIMUM GUARANTEE

(h) When a member enters the retirement system with, or without, credit for prior service, and is otherwise eligible for retirement after attaining the age of seventy (70) years, if his final compensation was such that one-half (½) thereof is in excess of the total of his retirement allowance, an additional pension for prior service sufficient to cause his retirement allowance to amount to one-half (½) of such final compensation shall be paid him on account of prior service, but in no event shall a greater additional pension be paid than will cause the total retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, to amount to the sum of four hundred eighty dollars ($480) per year. The provisions of this section shall not apply to the members who are employees of a contracting city unless provided for by contract between the board and the contracting city, but if a member be employed by more than one (1) of such cities, his aggregate retirement allowances shall be taken into account in applying said provisions, and said application shall be made as if the member was employed by one or more offices or departments of the state.

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DISABILITY RETIREMENT

Disability retirement.

(i) Any member who has not reached seventy (70) years of age shall be retired for disability if incapacitated for the performance of duty as the result of any injury or disease arising out of and in the course of his employment. Incapacity for performance of duty shall be determined by the board of administration of the public employees' retirement system, and said board of administration shall determine whether such incapacity is the result of injury or disease arising out of and in the course of employment. In the discharge of its duty regarding such determination, the board or any member thereof or duly authorized examiner or other duly authorized representative of the board shall have power to conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a claim for disability retirement. If the board determines on the evidence that it obtains and application filed that the disability resulted from injury or disease arising out of and in the course of employment, the said member shall be retired forthwith and be paid the benefits provided under the retirement system. Any such member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, and any other member so incapacitated, regardless of the cause, shall be retired forthwith regardless of age but only after ten (10) years of service to the state, or to the contracting city.

(j) Subject to the requirements as to service and cause of disability stated in subdivision (i) of this section, and upon the application of a member or upon the application of the head of the office or department in which such member is or was last employed, or any other person on behalf of such member, while such member is in state service, within four (4) months after such member's discontinuance of state service, or while such member continuously, from the date of discontinuance of state service to the time of the application or motion, is physically or mentally incapacitated to perform his duties, may apply for, or the board of administration upon its own motion

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may order, a medical examination to determine the existence of such incapacity. Upon the receipt of such application, the board of administration shall order such medical examination. If the medical examination and other available information show, to the satisfaction of said board, that the member is incapacitated physically or mentally for the performance of his duties in the state service, the said board shall forthwith retire the member for disability. The said board shall secure such medical service and advice as is necessary to carry out the purposes of this section and of sections 68-1001 through 68-1004, and shall pay for such medical services and advice such compensation as the board deems reasonable.

Disability retirement allowance.

DISABILITY RETIREMENT ALLOWANCE

(k) Upon retirement for disability a member who has attained the age of sixty (60) years shall receive a service retirement allowance as provided by subsections (a) through (g) of this section. Upon retirement of a member for disability resulting from injury or disease arising out of and in the course of employment, such member shall receive a retirement allowance of fifty per centum (50%) of his final compensation; provided, however, that for any period of time for which the industrial accident board has awarded compensation to the member, whether or not such compensation is received in weekly payments or in a lump sum, the retirement allowance shall be twenty-five per centum (25%) of his final compensation and at the end of such period of time shall revert to fifty per centum (50%) as provided above.

(1) Every other member retired for disability shall receive a retirement allowance which shall consist of:

(i) An annuity which shall be equal to one one-hundred fortieth (1/140) of his final compensation multiplied by the number of years of state service; and

(ii) If, in the opinion of the board of administration, such disability is not due to intemperance, willful misconduct or violation of law on the part of the member, a pension paid from the contributions of the state, or of the contracting city which, together with his annuity provided by his accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by

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his accumulated additional contributions, equal to ninety per cent (90%) of one-seventieth (1/70) of his final compensation multiplied by the number of years of service credited to him. In no event, however, shall this pension exceed twenty-five per cent (25%) of his final compensation.

(iii) If, in the opinion of the board, the disability is due to intemperance, willful misconduct or violation of law, on the part of the member, and the annuity to which said member is entitled under subdivisions (k) and (l) of this section, is less than two hundred forty dollars ($240) per year, the board of administration in its discretion, may pay to said member, in one lump sum and in lieu of said annuity, his accumulated contributions.

(m) For purposes of calculating final compensation a member of the legislative assembly and a Lieutenant Governor of the state of Montana may include as annual compensation all or any portion of the product of his compensation per day as a member, speaker of the house of representatives and president of the senate, including compensation earned prior to July 1, 1969, multiplied by three hundred sixty (360), if he pays thereon the normal contribution provided by this act. For purposes of calculating benefits under this sub-section he may include all or any portion of his service as a member of the legislature and a lieutenant governor of the state of Montana using the product of his compensation per day multiplied by three hundred sixty (360) if he pays thereon the normal contribution provided by this act. He may also include his prior service."

Section 5. Section 68-1307, R.C.M. 1947, is amended to read as follows: Amending clause.

"68-1307. **Allocation of money to public employees' retirement fund—disbursement procedure—contributions under this section, how applied.** (a) During the biennium for which appropriations of money are made by this legislative assembly, there shall be paid monthly by each department, board, commission, bureau, or other agency of the state into the public employees' retirement fund out of moneys appropriated from the state general fund, a sum equal to *four percent (4%)* of the total compensation paid members of the retirement system. In com- Allocation of money to public employees' retirement fund—disbursement procedure—contributions under this section—how applied.

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puting the amount of compensation upon which said *four percent (4%)* shall be reckoned, there shall be included a sum equal to the amount of compensation which would have been paid to members of the system who elect to continue and do continue their contributions to the system and who are absent with the armed forces of the United States, so long as such absence shall be continued.

(b) Each department, board, commission, bureau or other agency of the state shall certify to the state auditor at the end of each month the total amount of compensation paid members of the retirement system, including that which would have been paid to members who are absent in the armed forces of the United States. The state auditor shall thereupon draw a warrant upon the state treasurer for said *four percent (4%)* of compensation contributed by the state. Said warrant shall be drawn on funds appropriated to each department, board, commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the state treasurer shall deposit the amount thereof in said retirement fund.

(c) Contributions made to the retirement system under this section shall be applied by the board of administration to meet the state's obligations under the system in such order and amount as said board shall determine; provided, however, that said contributions shall be first applied to the liability accruing because of state service rendered during such year and on account of pensions provided for in section 68-901, such amounts to be determined by actuarial valuation as computed by the actuary of the said board.

(d) Each department, board, commission, bureau or other agency of the state under whose supervision there are state employees who are paid either fully or in part from federal funds, but who are not subject to the federal retirement system, shall certify to the state auditor at the end of each month the total amount of compensation paid such employees who are members of the retirement system; and the state auditor shall thereupon draw a warrant upon the state treasurer in the amount of *four percent (4%)* of the compensation of such employees, regardless of whether such compensation is partly or entirely

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derived from federal funds. Such warrant shall be drawn on funds appropriated to such department, board, commission, bureau or other agency of the state to the credit of the public employees' retirement fund and the treasurer shall deposit the amount thereof in said retirement fund."

Approved: March 7, 1969.

CHAPTER NO. 272

An Act to Repeal Section 91-3507, R.C.M. 1947, Which Requires Executors or Administrators to Render Accounts Within Thirty (30) Days After Expiration of Time Mentioned in Notice to Creditors.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-3507, R.C.M. 1947, is repealed. Repealing clause.

Approved: March 7, 1969.

CHAPTER NO. 273

An Act to Amend Section 59-538, R.C.M. 1947, to Authorize Certain Elected Officials Actual and Necessary Expenses While Engaged in State Service Away From Montana; and to Provide an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 59-538, R.C.M. 1947, is amended to read as follows: Amending clause.

"59-538. **Expenses of persons in state service—per diem allowance.** Every person engaged in any service in every department of state, *except the governor and the attorney general, state auditor, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, clerk of the supreme court and justices of the supreme court who shall be paid actual and necessary expenses as hereinafter provided exclusive* of persons in appointive positions, or positions created by law, whose duties consist of full or partial time in traveling to perform any service for the state under monthly or yearly Expenses of persons in state service—per diem allowance.

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salary, or who may be sent by any authorized executive of any department of the state upon a mission in performance of any clerical work, supervisory or extension work or otherwise, of every kind and character, shall be allowed, for the time engaged in such travel, *thirteen dollars and fifty cents ($13.50)* per day for such travel within the state of Montana, and for travel outside the state of Montana the sum of *twenty-two dollars and fifty cents ($22.50)* per day for meals and other necessary expenses; provided, that the provisions of this act shall not apply to persons holding offices specifically provided for in section 93-305, or section 93-313; provided that nothing herein contained shall be construed as affecting the validity of section 43-310; and provided further that the provisions of this act shall not apply to the elective state public officers of the state of Montana. *The governor shall be authorized actual and necessary expenses not to exceed sixty dollars ($60) per day. The attorney general, state auditor, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, clerk of supreme court and justices of supreme court shall be authorized actual and necessary expenses not to exceed forty dollars ($40) per day while engaged in state service away from Montana.''*

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved: March 7, 1969.

CHAPTER NO. 274

An Act to Fix the Mileage Paid Legislators Traveling to and From Sessions and Provide That Holdover Senators, Senators-Elect, and Representatives-Elect of the Majority and Minority Parties Shall Receive Mileage for Travel to and From the Pre-Session Caucuses; to Provide for a Pre-Session Caucus; to Provide That Members Appointed at the Caucus to the House Appropriations and the Senate Finance and Claims Committee Shall Begin Reviewing Money Requests Immediately; to Provide That Members of These Committees, Except Senators Elected at the General Election Held

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in 1968, Shall Receive $20 Per Diem for Each Day Engaged in Committee Business, and All Members of These Committees Shall Be Reimbursed for Actual And Necessary Expenses Incurred in Their Duties, All Per Diem and Expense Payments to Be Paid by the State Controller From the Appropriation for Operation of the Preceding Legislative Assembly; and to Change the State Canvass Date to Permit a Caucus December 1 or Earlier; Amending Sections 23-1814 and 43-310, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 43-310, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"43-310. **Per diem, mileage and expenses of members.** (1) Holdover members of the legislative assembly and members hereafter elected shall receive twenty dollars ($20.00) per day, payable weekly, during the session of the legislative assembly, and *nine cents (9c)* per mile for each mile of travel to and from their residences and the place of holding the session, by the nearest traveled route. **Per diem mileage and expenses of members.**

(2) Members shall also receive fifteen dollars ($15.00) per day, payable weekly during the session of the legislative assembly, as reimbursement for expenses incurred in attending the session.

(3) The majority and minority parties in each house shall hold pre-session caucuses for the purpose of preliminary organization of the respective houses. Holdover senators, senators-elect, and representatives-elect shall receive mileage at the rate of nine cents (9c) per mile for each mile of travel to and from their residences and the place or places of holding the pre-session caucuses."

Section 2. As soon after the official canvass as possible, but not later than December 1 of each year following an election when members of the legislative assembly are elected, the majority and minority parties of each house of the legislative assembly shall hold a pre-session caucus for holdover senators, senators-elect, and representatives-elect. The purpose of the caucus of each party of each house is to elect officers, appoint committees and hire any necessary employees. Members of the house appropriations committee and the senate finance and claims

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committee named at the caucus shall begin reviewing requests for appropriations immediately and may visit state agencies and institutions to discuss requests. Members of these committees, except senators elected at the general election held in 1968, shall receive twenty dollars ($20) per day for each day engaged in committee business, and all members of these committees shall be reimbursed for actual and necessary expenses incurred in their duties. Per diem and expenses shall be paid by the state controller from the appropriation for operation of the preceding legislative assembly.

Approved: March 7, 1969.

CHAPTER NO. 275

An Act Amending Section 80-2310 and Section 80-2312, R.C.M. 1947, Relating to the Establishment and Supervision of a Mental Retardation Center at Glendive, Montana: Providing for a Name for Said Center.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 80-2310, R.C.M. 1947, is hereby amended to read as follows:

Mental retardation center at Glendive—services provided.

"80-2310. **Mental retardation center at Glendive—services provided.** The board of institutions shall establish, construct, equip, maintain and provide services for a mental retardation center at Glendive *to be called 'Eastmont Training Center'* for residential and outpatient care of mentally retarded persons residing in Montana. The center shall be planned, constructed, equipped and shall provide services similar to those provided at the state training school and hospital at Boulder; provided, however, that the center shall not be a duplication of the state training school and hospital but shall be an extension thereof."

Amending clause.

Section 2. Section 80-2312, R.C.M. 1947, is hereby amended to read as follows:

Supervision of Glendive center—transfers to Boulder River school and hospital.

"80-2312. **Supervision of Glendive center—transfers to** *Boulder River* school and hospital. The board of institutions shall plan, supervise, and provide rules and regula-

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tions for, but not limited to, the construction, equipment, maintenance, staff requirements and services to be provided at the center. The board shall provide for temporary transfers from the *Eastmont Training Center* to the Boulder *River School and Hospital* for special medical, psychological, surgical and other services on a temporary basis."

Section 3. This bill will be effective upon passage and approval. **Effective immediately.**

Approved: March 10, 1969.

CHAPTER NO. 276

An Act Amending Section 80-1601 Relating to Institutions Subject to Per Diem Charge by Adding to Such Institutions the 'Eastmont Training Center'.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 80-1601, R.C.M. 1947, is hereby amended to read as follows: **Amending clause.**

"80-1601. **Institutions subject to per diem charge.** The state department of institutions shall collect and process per diem payments for the care of residents in the following institutions: **Institutions subject to per diem charge.**

(1) Montana Children's Center

(2) Warm Springs State Hospital

(3) Boulder River School and Hospital

(4) Galen State Hospital

(5) Montana Veterans' Home

(6) Montana Center for the Aged

(7) Eastmont Training Center."

Section 2. This bill will be effective upon passage and approval. **Effective immediately.**

Approved: March 10, 1969.

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CHAPTER NO. 277

An Act Amending Section 69-4807, R.C.M. 1947, to Require Persons Introducing a New or Increased Source of Sewage, Industrial Waste, or Other Waste to Waters and Tributaries Classfied A-Open-D-1, or Higher by the State Water Pollution Council to Install and Maintain the Highest and Best Treatment Works Necessary to Maintain the Classification Existing Prior to Issuance of a Permit.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-4807, R.C.M., is amended to read as follows:

Permits, issuance—plans and specifications required—treatment works required—revocation of permit for violation.

"69-4807. **Permits, issuance—plans and specifications required**—*treatment works required for new or increased sources of sewage, industrial waste, or other waste*—**revocation of permit for violation.** The department may require plans and specifications to determine if a permit should be issued. *Any person introducing a new source or increased source of sewage, industrial waste, or other wastes as defined in section 69-4802 (1), (2) and (3), R.C.M. 1947 to waters and tributaries of waters classified as A-open-D-1 or higher by the council shall be required to install and maintain the highest and best degree of treatment works necessary to maintain adequately said classification, as defined in section 69-4802 (7), R.C.M. 1947 prior to the issuance of a permit by the department.* If a violation of a permit causes damage to a water use, the department may immediately order revocation of the permit without a hearing, and so notify the violating person in writing, by registered mail, return receipt requested, the revocation to be effective immediately upon receipt of such notice by such person."

Approved: March 10, 1969.

CHAPTER NO. 278

An Act to Amend Section 66-2604, R.C.M. 1947, by Providing That the Water Well Contractor's Examining Board Shall Be Composed of One Nonvoting Member, Who Shall Be a Technical Advisor Hydrogeologist Ap-

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pointed by the Director of the Montana Bureau of Mines and Geology, and Three Voting Members. The Appointed Member of the Board Shall Receive as Compensation for His Service, the Sum of Twenty Dollars Per Day for Each Day Actually Engaged in the Performance of the Duties of His Office.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-2604, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2604. **Water well contractor's examining board—members—terms—oath—seal—employees.** (1) There is hereby created the water well contractor's examining board of the state of Montana. Water well contractor's examining board—members, terms, oath, seal and employees.

(2) The water well contractor's examining board of the state of Montana shall be composed of *one (1) nonvoting member and* three (3) *voting members. The one (1) nonvoting member shall be a technical advisor hydrogeologist appointed by the director of the Montana bureau of mines and geology. Of the three (3) voting members* one (1) *member* shall be the state engineer, appointed, qualified and acting pursuant to the provisions of section 81-2006; one (1) *member* shall be the director of the division of environmental sanitation of the state board of health of the state of Montana; and one (1) *member* shall be appointed by the governor with the concurrence of the state senate. In making this appointment, the governor may consider recommendations made to him by the Montana water well drillers association, and shall be from the water well drilling industry. The appointive member of the board shall serve for a term of three (3) years. In case of a vacancy in the office of a member of the board, an appointment shall be made to fill the same in the manner prescribed by the constitution and laws of this state. The appointive member of the board shall have been a bona fide resident of this state for a period of at least three (3) years prior to such appointment and shall have had at least five (5) years' experience in the water well drilling business.

(3) The appointive member of the board shall, upon entering on the duties of his office, take and subscribe to the oath specified in section 1, article XIX, of the constitution of the state of Montana, and such oath shall

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be filed in the office of the secretary of state of the state of Montana.

(4) The board shall have a seal with the words engraved thereon: "Water Well Contractor's Examining Board," and such seal shall be affixed to all writs, authentication of records, and other official proceedings of the board. The courts of this state shall take judicial notice of such seal.

(5) The board may, in its discretion, employ a secretary and such other persons as may be necessary to perform the duties of the board, either upon a part-time basis or upon a full-time basis. Each appointed member of the board who is not a government employee shall receive, as compensation for his services, the sum of *twenty dollars ($20)* per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the places at which he shall perform such duties, together with mileage and per diem expenses as provided by law. The state engineer and the director of environmental sanitation of the state board of health of the state of Montana shall receive no extra compensation for their services as members of the board."

Approved: March 10, 1969.

CHAPTER NO. 279

An Act to Amend Section 92-702, R.C.M. 1947, Relating to Compensation for Injury Producing Total Disability Permanent in Character by Giving the Industrial Accident Board Discretion to Extend It Beyond Five Hundred (500) Weeks in Certain Cases and Providing for Existing Benefits to Be Extended at an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-702, R.C.M. 1947, is amended to read as follows:

Compensation for injury producing permanent and total disability.

"92-702. **(2913) Compensation for injury producing total disability permanent in character.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who

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would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of thirty-seven dollars ($37.00) per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of forty dollars ($40.00) per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters, residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of forty-five dollars ($45.00) per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of fifty dollars ($50.00) per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of the injury, subject to a maximum compensation of fifty-five dollars ($55.00) per week; where the injured employee has a wife and four (4) children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66⅔%) of the weekly wages received at the time of the injury, subject to a maximum compensation of sixty dollars ($60.00) per week; and subject in all cases to a minimum compensation of thirty-four and 50/100 dollars ($34.50) per week; and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding five hundred (500) weeks from the date of injury. *Provided, that in cases of hardship and where the board, in its discretion, deems it necessary, the board may order compen-*

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sation for such further period as it decides proper. Such additional compensation, if ordered shall be limited to cases of total disability, permanent in character resulting from loss of or the loss of use of both hands, or both arms, or both feet, or both legs, or both eyes. Nothing herein contained shall be construed to affect the maximum of five hundred (500) weeks in computing lump sum settlements for partial disability or total disability or the maximum of six hundred (600) weeks in cases of compensation for injury causing death.''

Effective immediately.

Section 2. This act shall be in full force and effect from and after the date of its passage and approval.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 10, 1969.

CHAPTER NO. 280

An Act Amending Section 80-1403, R.C.M. 1947, by Adding Thereto the 'Eastmont Training Center' as an Institution Under the Jurisdiction of the Board of Institutions.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 80-1403, R.C.M. 1947, is hereby amended to read as follows:

Institutions in department.

"80-1403. **Institutions in department.** The following institutions are in the state department of institutions:

(1) Galen state hospital

(2) Montana veterans' home

(3) State prison

(4) Montana children's center

(5) Mountain View school

(6) Pine Hills school

(7) Boulder River school and hospital

(8) Warm Springs state hospital

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(9) Montana center for the aged

(10) Swan River youth forest camp

(11) *Eastmont training center*

(12) Such other institutions or departments established or to be established in the future having the function or purpose of providing care and services for juvenile delinquents including but not limited to youth forest camps and juvenile reception and evaluation centers.

No state institution may be moved, discontinued or abandoned without prior consent of the legislative assembly."

Section 2. This act is effective on its passage and approval. **Effective immediately.**

Approved: March 10, 1969.

CHAPTER NO. 281

An Act Authorizing Cities and Counties to Impose Passenger Service Charges for the Use of Certain Public Airports by Passenger Air Carriers and Providing for Reporting, Collection, Disposition and Use Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act unless the context indicates otherwise:

(1) "Passenger air carrier" means a common carrier of passengers for hire by aircraft weighing over twelve thousand five hundred (12,500) pounds on a regular schedule or schedules, and a carrier of passengers for hire by aircraft weighing over twelve thousand five hundred (12,500) pounds on a contract or charter basis. **"Passenger air carrier."**

(2) As used in this act "city" means a city of the first class and "county" means a county of the first, second, or third class. **"City."**

Section 2. (1) Every city or county which constructs, operates or maintains, individually or jointly, a public airport with funds contributed in whole or in part, directly or indirectly, by the state, county, city or other **Authority to charge service charge of $1 for each passenger emplaning.**

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public authority, is authorized and empowered to require every passenger air carrier for hire which uses the airport for commercial use of aircraft, to pay a service charge of one dollar ($1) for each passenger emplaning upon its aircraft at any such public airport as a point of origin for transportation purposes. The charge authorized to be imposed herein is in consideration of the use of the airport and associated airport facilities provided by the public for taking off and landing of commercial passenger aircraft, for providing facilities for the passengers thereof, and to defray the cost of furnishing, operating, improving and maintaining the public airport and related facilities. The charge herein provided for is in addition to any other charges that may be required or imposed by an air carrier for hire for transportation or other services provided.

Duties of air carriers.

(2) Each passenger air carrier subject to the provisions of this act shall:

(a) Before the fifteenth (15th) of each month, file a return with the state board of equalization showing the number of passengers for hire emplaning on aircraft of the passenger air carrier at each public airport in the state during the preceding calendar month;

(b) File with the return, additional other pertinent information required by the board;

(c) Remit with the return the service charges imposed under this act.

Duties of board.

(3) Before the first (1st) day of the calendar month following that in which a return is filed, the board shall:

(a) Audit the return;

(b) Forward to each city or county that operates a city or county airport and which imposes a service charge as herein authorized, the amount of the charges collected for passengers emplaning at that airport;

(c) Forward to each city and county which jointly operate a city-county airport and which impose a service charge as herein authorized, the amount of the charges collected for passengers emplaning at the airport, dividing the amount of the charges equally between the county and the city.

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Disposition of funds.

(4) All service charges received by counties and cities under the provisions of this act shall be deposited in the airport fund of the county or city or in the joint airport fund of the city and county and shall be used for construction, improvement, operation, maintenance and repair of its public airport or for the retirement of bonds issued for the construction or improvement of the airport.

Carrier may charge passenger.

Section 3. Nothing in this act shall prevent a passenger air carrier from collecting, directly or indirectly, the service charge payable for each paying passenger from the passenger.

Collection of charge.

Section 4. If any person, firm, or corporation subject to the provisions of this act fails or neglects to pay the service charges, the same may be collected through civil proceedings in an appropriate court.

Approved: March 10, 1969.

CHAPTER NO. 282

An Act to Amend Sections 66-2326, 66-2327, 66-2332, 66-2336, 66-2337, 66-2338, 66-2340, 66-2344, and 66-2345, Revised Codes of Montana, 1947, to Define the Term, 'Practice of Engineering'; to Provide for the Increase of the Members of the State Board of Professional Engineers and Land Surveyors From Five to Seven; to Declare the Practice of Engineering and Surveying Without a License a Public Nuisance; to Provide for Oral and Written Examinations of Applicants and Registrants; to Provide for Additional Grounds for Revocation, Suspension, Refusal to Renew, and Reprimand of Registrants for Gross Negligence and Felony, and Failure to Follow Corner Recordation Act; to Provide Procedural Changes for Filing Charges Against a Registrant by an Aggrieved Party; and to Provide for Repeal of All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-2326, Revised Codes of Montana, 1947, be, and the same is amended to read as follows:

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"Engineer."

"66-2326. **Definitions.** The term 'engineer' as used in this act shall mean a professional engineer as hereinafter defined.

"Professional engineer."

The term 'professional engineer' within the meaning and intent of this act shall mean a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as hereinafter defined, as attested by his legal registration as a professional engineer.

"Engineer-in-training."

The term 'engineer-in-training' as used in this act shall mean a candidate for registration as a professional engineer who is a graduate in an engineering curriculum of four years or more from a school or college approved as of satisfactory standing by the engineer's council for professional development or its successor as an agency evaluating professional engineering curricula, *or equivalent curricula as approved by the board,* or who has had four years or more of experience in engineering work of a character satisfactory to the board; and who, in addition, has successfully passed the examination in the fundamental engineering subjects as provided in section 66-2338, and who shall have received from the board, as hereinafter defined, a certificate stating that he has successfully passed this portion of the professional examinations.

"Practice of engineering."

The term 'practice of engineering' within the meaning and intent of this act shall mean any professional service or creative work requiring engineering education, training, and experience and the application of such special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, *and including such architectural work as is incidental to the practice of engineering.*

The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment, or communication lines or signal circuits, or electric power lines or pipelines.

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The term 'land surveyor' as used in this act shall mean a person who engages in the practice of land surveying as hereinafter defined. "Land surveyor."

The practice of land surveying within the meaning and intent of this act includes surveying of areas for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the plotting of lands and subdivisions thereof.

The term 'board' as used in this act shall mean the state board of registration for professional engineers and land surveyors provided for by this act." "Board."

Section 2. Section 66-2327, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows: Amending clause.

"66-2327. **Board—members—term.** A state board of registration for professional engineers and land surveyors, is hereby created whose duty it shall be to administer the provisions of this act. The board shall consist of five professional engineers, *and two registered and practicing land surveyors, all of whom* shall be appointed by the governor. No more than two members shall be from the same branch of the profession of engineering. All *professional engineer* members shall have the qualifications required by section 66-2328. Board—members—term.

The members of the first board shall be appointed within ninety days after the passage of this act. Two members of the first board shall be members of the previous civil engineer board, and shall serve for one and two year terms respectively. The other appointments to the first board shall be for the terms of three,, four, and five years respectively, or until their successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor and before beginning his term of office shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duty. Each member of the board first appointed hereunder shall receive a certificate of registration under this act from said board. On the expiration of the term of any member, the governor shall appoint for a term of five years a registered professional engineer, having the qualifications required by

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section 66-2328, *or a licensed and practicing land surveyor,* to take the place of the member whose term on said board is about to expire. *The member so appointed by the governor shall have qualifications similar to the member whose term on said board is about to expire.* Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified. A member of the board may be appointed to succeed himself. *No person shall be appointed to the board who has served two consecutive terms thereon. The governor shall within ninety days after the passage of this act appoint two licensed and practicing land surveyors to said board for a term of three and five years respectively."*

Amending clause.

Section 3. Section 66-2332, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Board—powers.

"66-2332. **Board—powers.** The board shall have the power to adopt and amend all rules and regulations and rules of procedure, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal.

In carrying into effect the provisions of this act, the board, under the hand of its chairman and the seal of the board may subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district court, setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person, requiring his attendance before such authority and there to testify or to produce such books, papers, and documents, as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as

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for refusal to obey any other subpoena or order of said court. *The practice of engineering or land surveying as defined herein, without a license is hereby declared to be a public nuisance.*"

Amending clause.

Section 4. Section 66-2336, Revised Codes of Montana, 1947, be and the same is, hereby amended as follows:

Requirements for registration.

"66-2336. **Requirements for registration.** The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, or land surveyor, or for certification as an engineer-in-training, respectively:

Professional engineer.

(1) As a profssional engineer:

a.—Graduation in an engineering curriculum of four years or more from a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula *or equivalent curricula as approved by the board*; and a specific record of an additional four years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to practice engineering (in counting years of experience, the board at its discretion may give credit, not in excess of one year, for satisfactory graduate study in engineering), and by successfully passing an oral or written examination, or both, as the board may determine; or

b.—A specific record of eight years or more of experience in engineering work of a character satisfactory to the board, and successfully passing a written, or written and oral, examination designated to show that the applicant is competent to practice engineering; or

c.—A specific record of twelve years or more of lawful practice in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering and has had responsible charge of important professional engineering work for at least five years, and provided applicant is not less than thirty-five years of age.

Engineer in training.

(2) As an engineer-in-training:

a.—Graduation in an engineering curriculum of four

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scholastic years or more from a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula, *or equivalent curricula approved by the board,* and successfully passing a written examination in the basic engineering subjects; or

b.—A specific record of four years or more of experience in engineering work of a character satisfactory to the board, and successfully passing a written examination in the basic engineering subjects.

Land surveyor.

(3) As a land surveyor:

a.—Graduation from a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula, including the completion of an approved course in surveying *or equivalent surveying courses approved by the board,* and an additional two years or more of experience in land surveying work of a character satisfactory to the board indicating that the applicant is competent to practice land surveying, *and successfully passing a written, or written and* oral, examination in surveying prescribed by the board; *or*

b.—A specific record of six years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying, and successfully passing a written, or written and oral, examination in surveying prescribed by the board; or

c.—*Registration by comity or endorsement—a person holding a cerificate of registration to engage in the practice of land surveying issued on comparable qualifications from a state, territory, or possession of the United States, will be given comity consideration. However, he may be asked to take such examinations as the board deems necessary to determine his qualifications, but in any event he shall be required to pass a written examination of not less than four hours' duration, which shall include questions on laws, procedures, and practices pertaining to practice in this state.*

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(4) The board may require any applicant to take a written or oral examination or both. Examinations.

No person shall be eligible for registration as a professional engineer, or land surveyor, or certification as an engineer-in-training, who is not of good character and reputation.

In considering the qualifications of applicants, engineering teaching may be construed as engineering experience.

The satisfactory completion of each year of an approved curriculum in engineering in a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula *or equivalent curricula approved by the board,* without graduation, shall be considered as equivalent to a year of experience in section 66-2336 (1) b and (2) b. Graduation in a curriculum other than engineering from a college or university of recognized standing may be considered as equivalent to two years of experience in section 66-2336 (1) and (2) b; provided, however, that no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not in itself be deemed to be qualifying engineering experience.

Any person having the necessary qualifications prescribed in this act to entitle him to registration shall be eligible for such registration although he may not be practicing his profession at the time of making his application."

Section 5. Section 66-2337, Revised Codes of Montana, 1947, be, and the same is, hereby amended as follows: Amending clause.

"66-2337. **Application for registration—fees.** Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of his technical work, and shall contain not less than five references, of whom three or more Application for registration—fees.

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shall be engineers *or land surveyors* having personal knowledge of his engineering *or land surveying* experience.

The registration fee for professional engineers shall be twenty dollars ($20.00), ten dollars ($10.00) of which shall accompany application, the remaining ten dollars ($10.00) to be paid upon issuance of certificate. When a certificate of qualification issued by the national bureau of engineering registration is accepted as evidence of qualification, the total fee for registration as professional engineer shall be ten dollars ($10.00).

The fee for engineer-in-training shall be ten dollars ($10.00), which shall accompany the application and shall include the cost of examination and issuance of certificate. When certification as an engineer-in-training by another state, or any territory or possession of the United States or any country, is accepted as evidence of qualification, the fee for engineer-in-training in Montana shall be one dollar ($1.00). When registration as a professional engineer is completed by an engineer-in-training, an additional fee of ten ($10.00) shall be paid before issuance of certificate as a professional engineer.

The registration fee for land surveyors shall be ten dollars ($10.00), which shall accompany the application. The fee for registration as both a professional engineer and land surveyor shall be thirty dollars ($30.00), ten dollars ($10.00) of which shall accompany the application, the remaining twenty dollars ($20.00) to be paid upon issuance of certificate.

Should the board deny the issuance of a certificate of registration to any applicant the initial fee deposited shall be retained as an application fee."

Amending clause.

Section 6. Section 66-2338, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Examinations.

"66-2338. **Examinations.** *The board may require any applicant to take a written or oral examination which shall be held at the time and place the board shall determine. The board may require a registrant to take a written or oral examination, or both, in any proceeding to revoke, reprimand, suspend, or refuse to renew.* When examinations are required on fundamental engineering sub-

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jects (such as are ordinarily given in college curricula), the applicant shall be permitted to take this part of the professional examination prior to his completion of the requisite years of experience in engineering work, and satisfactory passage of this portion of the professional examination by the applicant shall constitute a credit for a period of ten years. The board shall issue to each applicant upon successfully passing the examination in fundamental engineering subjects a certificate stating that he has passed the examination and that his name has been recorded as an engineer-in-training.

The scope of the examinations and the methods of procedure shall be prescribed by the board but, with special reference to the applicant's ability to design and supervise engineering works, so as to insure the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in engineering and in land surveying. A candidate failing on examination may apply for re-examination at the expiration of six months and will be re-examined without payment of additional fee. Subsequent examinations will be granted upon payment of a fee to be determined by the board."

Amending clause.

Section 7. Section 66-2340, Revised Codes of Montana, be, and the same is hereby amended as follows:

Expiration and renewals—fee.

"66-2340. **Expiration and renewals—fee.** Certificates of registration shall expire on the last day of the month of December following their their issuance or renewal and shall become invalid on that date unless renewed; provided, however, that certificates issued after the effective date of this act and prior to January 1, 1958, shall expire December 31, 1958. It shall be the duty of the secretary of the board to notify every person registered under this act, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee of ten dollars ($10.00) for either a professional engineer or land surveyor or both. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such

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person of the right of renewal, *provided, however, any registrant who fails to pay said renewal fee for two (2) consecutive years shall be considered by the board to be a new applicant and shall be required to submit a new application.''*

Amending clause.

Section 8. Section 66-2344, Revised Codes of Montana, 1947, be, and the same is, hereby amended as follows:

Registration of persons registered by other states or authorities.

"66-2344. **Registration of persons registered by other states or authorities.** The board may, upon application therefor, and the payment of a fee of ten dollars ($10.00), issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the *National Bureau of Engineering Registration,* or of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of this act and the rules established by the board.''

Amending clause.

Section 9. Section 66-2345, Revised Codes of Montana, 1947, be, and the same is, hereby amended as follows:

Revocation of registration—hearings—reissuance of certificate—appeals.

"66-2345. **Revocation of registration — hearings — reissuance of certificate—appeals.** The board shall have the power to *revoke, reprimand, suspend, or refuse to renew* the certificate of any registrant who is found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate of registration;

(b) Any gross negligence, incompetency, or misconduct in the practice of engineering or land surveying as a registered professional engineer or land surveyor.

(c) Any felony.

(d) The failure of any land surveyor to comply with the Corner Recordation Act.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be *made by affidavit,* and shall be *subscribed and* sworn to by the person making them, and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded

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or trivial, shall be heard by the board within three months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such registrant, at least thirty days before the date fixed for the hearing. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

If, after such hearing, *four* or more members of the board vote in favor of *sustaining the charges,* the board shall *reprimand, suspend, refuse to renew, or* revoke the certificate of registration of such registered professional engineer or land surveyor.

The board, for reasons it may deem sufficient, may reissue a certificate of registration to any person whose certificate has been revoked, providing *four* or more members of the board vote in favor of such reissuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board, and a charge of three dollars ($3.00) shall be made for such issuance.

Any person who shall feel aggrieved by any action of the board in denying, *reprimanding, suspending, refusing to renew* or revoking his certificate of registration may appeal therefrom to the district court of the county in which such denial, *suspension, reprimand, refusal to renew,* or revocation was made, and after full hearing, said court shall make such decree sustaining or reversing the action of the board as to it may seem just and proper."

Amending clause.

Section 10. Section 66-2347, Revised Codes of Montana, 1947, be, and the same is, hereby amended to read as follows:

Practices to which act inapplicable.

"66-2347. **Practices to which act inapplicable.** This act shall not be construed to prevent or to affect:

(a) The practice of any other legally recognized professions or trades.

(b) The mere execution of work by a contractor as dis-

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tinguished from the planning or design thereof, or the supervision of the construction of such work as a foreman or superintendent; or

(c) The practice of a person not a resident of and having no established place of business in this state, practicing or offering to practice herein the profession of engineering, when such practice does not exceed in the aggregate more than thirty days in any calendar year; provided such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act; or

(d) The practice of a person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice engineering or land surveying herein for more than thirty days in any calendar year, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this act; provided that such a person is legally qualified by registration to practice engineering or land surveying in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(e) The performance of professional engineering functions or work by a person who is an employee or acts under the supervision and direction of a professional engineer, provided such person is not in responsible charge of such engineering work; or

(f) The practice of professional engineering by licensed architects where such practice is purely incidental to their practice of architecture, or

(g) The practice of officers and employees of the government of the United States while engaged within this state in the practice of engineering or land surveying, for said government, or

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(h) The practice of professional engineering or land surveying in this state by a firm, copartnership, corporation or joint stock association, or by its members, officers or employees on its behalf, provided each person in responsible charge of activities of the firm, copartnership, corporation or joint stock association which constitutes such practice is a professional engineer or land surveyor respectively, holding a certificate of registration under this act."

Section 11. All acts and parts of acts in conflict herewith are hereby repealed. **Repealing clause.**

Approved: March 10, 1969.

CHAPTER NO. 283

An Act Amending Section 16-1015, R.C.M. 1947, to Provide for Increases in the Maximum Levy on Taxable Property by the Boards of County Commissioners to Defray Current County Expenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1015, R.C.M. 1947, enacted as Section 1, Chapter 128, Laws of 1967, is amended to read as follows: **Amending clause.**

"16-1015. **Taxation.** The board of county commissioners has jurisdiction and power under such limitations and reservations as are prescribed by law to levy such tax annually on the taxable property of the county, for county purposes as may be necessary to defray the current expenses thereof, including the salaries otherwise unprovided for, not exceeding *twenty-four (24)* mills, on each dollar of the taxable valuation for any one (1) year *for counties of the fourth, fifth, sixth and seventh classes, and twenty-two (22) mills on each dollar of the taxable valuation for any one (1) year for counties of the first, second and third classes and* to levy such taxes as are required to be levied by special or local statutes." **Taxation.**

Approved: March 10, 1969.

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CHAPTER NO. 284

An Act Amending Section 25-605, R.C.M. 1947, to Increase the Salaries of County Treasurers, Clerk and Recorder, Clerk of the Court, County Attorneys, Sheriffs, County Assessors, County Superintendents of Schools, and of County Surveyors in Counties Where County Surveyors Now Receive Salaries.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-605, R.C.M. 1947, is amended to read as follows:

Salaries of certain county officers.

"25-605. **Salaries of certain county officers.** The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section *16-3302,* shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County	Salary Col. A
Below 3,000	*$2,780*
3,000 to 3,999	*$2,860*
4,000 to 4,999	*$2,930*
5,000 to 5,999	*$2,990*
6,000 to 6,999	*$3,060*
7,000 to 7,999	*$3,260*
8,000 to 8,999	*$3,320*
9,000 to 9,999	*$3,400*
10,000 to 12,499	*$3,460*
12,500 to 14,999	*$3,530*
15,000 to 17,499	*$3,600*
17,500 to 19,999	*$3,660*
20,000 to 24,999	*$3,730*
25,000 to 29,999	*$3,790*
30,000 to 39,999	*$3,860*
40,000 to 49,999	*$3,960*
50,000 to 59,999	*$4,100*
60,000 to 69,999	*$4,240*
70,000 to 79,999	*$4,370*
80,000 to 89,999	*$4,500*
90,000 to 99,999	*$4,630*
100,000 and over	*$4,780*

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Taxable Valuation of County	Salary Col. B
Below $2,000,000	*$2,780*
$ 2,000,000 to 2,999,999	*$2,860*
3,000,000 to 3,999,999	*$2,930*
4,000,000 to 4,999,999	*$2,990*
5,000,000 to 5,999,999	*$3,060*
6,000,000 to 6,999,999	*$3,260*
7,000,000 to 7,999,999	*$3,320*
8,000,000 to 9,999,999	*$3,400*
10,000,000 to 11,999,999	*$3,460*
12,000,000 to 13,999,999	*$3,530*
14,000,000 to 15,999,999	*$3,600*
16,000,000 to 17,999,999	*$3,660*
18,000,000 to 19,999,999	*$3,730*
20,000,000 to 22,499,999	*$3,790*
22,500,000 to 24,999,999	*$3,860*
25,000,000 to 29,999,999	*$3,960*
30,000,000 to 34,999,999	*$4,100*
35,000,000 to 39,999,999	*$4,240*
40,000,000 to 44,999,999	*$4,370*
45,000,000 to 49,999,999	*$4,500*
50,000,000 to 54,999,999	*$4,630*
55,000,000 to 59,999,999	*$4,780*
60,000,000 to 64,999,999	*$4,780*
65,000,000 to 69,999,999	*$4,780*
70,000,000 to 74,999,999	*$4,780*
75,000,000 to 79,999,999	*$4,780*

The total salary paid to county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools *and county sheriffs,* and county surveyors in counties where county surveyors receive salaries, as provided in section *16-3302,* shall be the sum of the salary shown in column A based on population when added to the salary shown in column B based on taxable valuation; provided, however, that county superintendents of schools shall receive, in addition to the salary based upon the totals of columns A and B above, the sum of four hundred dollars ($400) per year."

Aproved: March 10, 1969.

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CHAPTER NO. 285

An Act to Amend Section 92-701, R.C.M. 1947, Montana's Workmen's Compensation Act, by Increasing Benefits in all Categories by the Sum of Five Dollars During the First Twenty-six Weeks of Disability and Thereafter Decreasing Benefits in all Categories by the Sum of Five Dollars.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-701, R.C.M. 1947, is amended to read as follows:

Compensation for injury producing temporary total disability.

"92-701. **Compensation for injury producing temporary total disability.** Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-two dollars ($42)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States, who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury subject to a maximum compensation of *forty-five dollars ($45)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty dollars ($50)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-five dollars ($55)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of his injury, subject to a maximum compen-

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sation of *sixty dollars ($60)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing in the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66⅔%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *sixty-five dollars ($65)* per week, and subject in all cases to a minimum compensation of *thirty-nine and 50/100 dollars ($39.50)* per week, and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding three hundred (300) weeks from the date of injury *provided that after twenty-six (26) weeks of disability such compensation shall be decreased by the sum of five dollars ($5) per week during the remaining period of disability."*

Approved: March 10, 1969.

CHAPTER NO. 286

An Act to Require Fenders or Covers on Certain Wheels of Specified Types of Motor Vehicles; Defining the Dimensions and Locations of Such Fenders or Covers; and Providing Penalties for any Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Requirement of fenders or covers on certain wheels of certain vehicles.

Section 1. (a) It shall be unlawful for any person to move, or permit to be moved, any truck, bus, truck-tractor, trailer or semitrailer, as defined in sections 32-2102 to 32-2105, R.C.M. 1947, inclusive, upon the public highways without having first equipped the rearmost wheels or set of wheels of such vehicle with fenders, splash aprons or flaps. Such fenders, splash aprons or flaps shall be designed, constructed and attached to the vehicle in such manner so as to arrest and deflect dirt, mud, water, rocks and other substances which may be picked up by the rear wheels of such vehicle and thrown into the air, as follows:

(1) If the vehicle is equipped with fenders the same shall extend in full width from a point above and forward

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of the center of the tire or tires over and to the rear thereof.

(2) If the vehicle is equipped with splash aprons or flaps the same shall extend downward in full width from a point not lower than halfway between the center of the tire or tires and the top of said tire or tires and to the rear thereof.

(3) If the vehicle is in excess of eight thousand (8,000) pounds gross vehicle weight, such fenders, splash aprons or flaps shall extend downward to a point that is not more than ten (10) inches above the surface of the highway when the vehicle is empty.

(4) If the vehicle is eight thousand (8,000) pounds, or less, gross vehicle weight, such fenders, splash aprons or flaps shall extend downward to a point that is not more than twenty (20) inches above the surface of the highway when the vehicle is empty.

(b) Fenders, splash aprons or flaps, as used in paragraph (a) of this section shall be deemed to be of sufficient size and construction as to comply with the requirements thereof, if constructed as follows:

(1) When measured on the cross sections of the tread of the wheel or on the combined cross sections of the treads of multiple wheels, such fender, splash apron or flap extends at least to each side of the width of the tire or of the combined width of the multiple tires, as the case may be; and

(2) Such fender, splash apron or flap is so constructed as to be capable at all times of arresting and deflecting such dirt, mud, water, or other substance as may be picked up and carried by such wheel or wheels.

(c) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars ($10) nor more than twenty-five dollars ($25), or by imprisonment in the county jail for a period of not more than thirty (30) days, or by both such fine and imprisonment.

Approved: March 10, 1969.

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CHAPTER NO. 287

An Act to Amend Section 75-606, R.C.M. 1947, to Provide for the Designation of a State Geologist who Shall Be Director of the Bureau of Mines and Geology; and Amending Section 75-607, R.C.M. 1947, to Provide That the Bureau of Mines and Geology Shall Study Geological Formations With Special Reference to Ground Water.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-606, R.C.M. 1947, be amended to read as follows: Amending clause.

"75-606. **Appointment of** *director,* **assistants and employees.** The state board of education shall have power and it shall be its duty to appoint a *certified professional geologist or registered* mining engineer as the director of the said bureau, *who shall be designated as the state geologist,* and to appoint such assistants and employees as may be necessary, and to fix the compensation of all persons connected with the said bureau." Appointment of director, assistants and employees.

Section 2. That section 75-607, R.C.M. 1947, be amended to read as follows: Amending clause.

"75-607. **Objects and duties of bureau.** The bureau shall have for its object and duties the following: Objects and duties of bureau.

1. To collect, to compile, and to publish statistics relative to Montana geology, mining, milling and metallurgy.

2. To collect typical geological and mineral specimens and samples of products; to collect photographs, models, and drawings of appliances used in the mines, mills and smelters of Montana.

3. To collect a library and a bibliography of literature pertaining to or useful for the progress of geology, mining, milling, and smelting in Montana.

4. To study the geological formations of the state, with special reference to their economic mineral resources, both metallic and nonmetallic, *and with special reference to ground water.*

5. To examine the topography and physical features of the state with reference to their practical bearing upon the occupation of the people.

6. To study the mining, milling, and smelting opera-

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tions carried on in the state, with special reference to their improvement.

7. To prepare and to publish bulletins and reports, with necessary illustrations and maps, which shall embrace both a general and a detailed description of the natural resources and geology, mines, mills and reduction plants of the state.

8. To make qualitative examinations of rocks and mineral samples.

9. To consider such other scientific and economic problems as in the judgment of the state board of education are of value to the people of the state.

10. To communicate special information of Montana geology, mining and metallurgy.

11. To co-operate with the other departments of the university of Montana, with the state mine inspector, and with other departments of the state government as may be mutually beneficial; and to co-operate with the United States geological survey and with the United States bureau of mines, in accordance with the regulations of those institutions.

12. It shall also be the duty of the bureau of mines and geology, upon the request of the department of state lands and investments, to make examinations of state lands with regard to their geological formation and structure and as to all features relating to the character, extent and probable value of mineral deposits therein, including oil and gas; provided, however, that these services by the bureau shall be limited to the time that its personnel has available for such work in addition to its duties as defined in the preceding sections. Written reports shall be prepared of the examinations made.

Field examinations.

Subject to the same limitations and conditions as above enumerated, the bureau of mines and geology shall carry on field examinations for other branches and agencies of the government of the state.

Expenses of examiner.

Traveling expenses incurred by the examiner, including meals, lodging and incidental expenses, shall be paid by the department requesting the examination from available appropriations upon the presentation of claims in the ordinary form."

Approved: March 10, 1969.

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CHAPTER NO. 288

An Act Authorizing the Establishment and Implementation of a Prisoner Furlough Program, Under the Direction of the Warden of the State Prison With the Advice and Consent of the Montana Board of Pardons for Selected Persons Serving Sentences Within the State Prison.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorizing the establishment and implementation of prisoner furlough program.

Section 1. **Purpose and intent.** The purpose and intent of this act is to establish a program for the rehabilitation, education, and betterment of selected prisoners confined in the state prison; to increase their responsibility to society; to make it possible that they may, while serving their sentences, work gainfully to support their dependents in whole or in part; and providing for a minimum wage of one and 40/100 ($1.40) dollars an hour to be paid to said convicts while so employed; continue their education or training; and at the same time fulfill the obligations of the sentence of imprisonment imposed; placing the establishment, regulation, guidance, and control of such program under the direction of the warden of the state prison with the advice and consent of the state board of pardons, which program shall operate by supplementing and not replacing established penal procedures now or hereafter established by law. This act is to be liberally construed to effect the overall objectives set forth above.

Section 2. As used in this act, unless the context indicates otherwise:

"Board."

(1) "Board" means the state board of pardons;

"State prison."

(2) "State prison" means the Montana state prison at Deer Lodge;

"Prisoner."

(3) "Prisoner" means a person sentenced by a district court to a term of confinement in the state prison;

"Sheriff."

(4) "Sheriff" means any county sheriff including all deputies or other persons working under his direction or guidance;

"Jail."

(5) "Jail" means any county jail;

"Warden."

(6) "Warden" means the superintendent of the state prison appointed by the board of institutions.

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Authority of warden.

Section 3. The warden is authorized and directed to establish a furlough program and rules to implement and control the same. A prisoner sentenced to the state prison may be granted the privilege of:

(1) working at paid employment for a rate of pay not less than one and 40/100 ($1.40) dollars an hour, or

(2) participating in an educational or training program.

Application by prisoner.

Section 4. Any prisoner confined in the state prison may make application to participate in the furlough program according to rules adopted by the warden with the advice and consent of the board.

Approval by board.

Section 5. (1) The board shall approve or deny the application of the prisoner after careful study of the prisoner's conduct, attitude and behavior in the prison in which the prisoner is confined, his criminal history, and all other pertinent case material.

(2) If the application is approved, the warden shall adopt a furlough plan for the prisoner, which shall constitute an extension of the limits of confinement.

(3) No prisoner shall be released without the written consent of the sheriff of the county receiving the prisoner.

Disposition of earnings.

Section 6. (1) A prisoner employed in the community under a work furlough plan shall surrender to the sheriff his total earnings less payroll deductions required by law. The sheriff shall deduct from such earnings in the following order of priority:

(a) a standard charge for all prisoners determined by the county commissioners to be the cost to the county of providing food, lodging and clothing for such prisoner;

(b) the actual and necessary travel and other expenses of such prisoner under furlough from actual confinement under the program; and

(c) such amount as the prisoner may be determined by the district judge to pay for the support of his dependents, which amount shall be paid to such dependents; and

(d) a minimal allowance for personal items.

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(2) Any balance remaining after such deductions and payments shall be deposited to an interest bearing account held in trust for said prisoner and shall be paid to him upon release.

(3) The above costs of a prisoner under furlough who is in training or school shall be the responsibility of the state.

Rules and regulations.

Section 7. (1) The warden is authorized to make rules for the administration of the provision of this act with the advice and consent of the board.

(2) All state agencies shall cooperate with the warden and sheriff in the administration of the furlough program.

Prisoners not agents or servants of warden or sheriff.

Section 8. No prisoner employed in the community under the provisions of this act shall be deemed to be an agent, employee, or involuntary servant of the warden or sheriff while released from confinement pursuant to the terms of the furlough program.

Not to affect parole.

Section 9. Nothing in this act shall be construed to affect eligibility for parole. Time served in the furlough program shall be considered as a part of the imposed sentence of such prisoner.

Responsibility of sheriff.

Section 10. (1) The sheriff of the county to which the prisoner has been released shall be responsible for the activities of the prisoner according to the rules approved by the board. The sheriff shall keep the warden informed.

(2) If any prisoner released from actual prison confinement under the furlough program shall fail to comply with the rules and regulations of the furlough program, such furlough shall be canceled and such prisoner shall be returned to prison to complete his sentence. No prisoner shall be returned to prison to complete his sentence without first being charged with a violation of the rules and regulations of the furlough program in the district court of the county in which said violation took place and such prisoner shall be entitled to have counsel appointed to represent him at said hearing. Provided however, if said prisoner, while not disabled from working by temporary illness, is unemployed for a period of thirty (30) days, or more, after his availability for em-

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ployment is reported in writing by the sheriff of the county to which said prisoner is released, to the Montana unemployment compensation commission office serving such area, and to the union to which said prisoner belongs, if any, then the warden, upon request of said sheriff and upon a showing having been made by the sheriff of said county in the district court that said employee has been so unemployed, or on a showing that said prisoner has become so disabled that he is unemployable, or when said warden shall revoke said furlough and said prisoner is returned to said prison, or if said prisoner is on an education furlough and said prisoner has demonstrated for a period of six (6) weeks or more that he is unable to benefit from such schooling or training, then upon such a showing being made by the sheriff of the county to which said prisoner has been furloughed in a district court of said county, then the warden shall revoke such furlough and said prisoner shall be returned to the prison.

Repealing clause.

Section 11. All acts or parts of acts which conflict herewith are hereby repealed.

Approved: March 10, 1969.

CHAPTER NO. 289

An Act Providing the Maximum Salaries for Commissioners and Mayor Under the Commission-Manager Plan of City Government and Amending Section 11-3248, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-3248, R.C.M. 1947, is amended to read as follows:

Compensation of commissioners and mayor.

"11-3248. **Compensation of commissioners and mayor.** The salary of each commissioner may be as follows: For each *formal* meeting *of record* attended, cities or towns with less than twenty-five thousand inhabitants, twenty-*five* dollars *($25); provided that no more than one (1) fee shall be paid for any one (1) day. For* cities with more than twenty-five thousand inhabitants, *the annual salary of each commissioner shall* not exceed *two thousand five*

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hundred dollars ($2,500). The salary of the commissioner acting as mayor may be one and one-half times that of the other commissioners."

Approved: March 10, 1969.

CHAPTER NO. 290

An Act Amending Section 69-5201, R.C.M. 1947, Further Defining Long-Term Care Facility to Include Extended Care Facilities and the Provision of Care to a Total of Four (4) or More Persons; Adding a New Section to Title 69, Chapter 52, R.C.M. 1947, to Require Registration of Facilities With the Department of Health.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-5201, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"69-5201. **Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

(1) 'Hospital' means a place which for twenty-four (24) hours or more in each week: **"Hospital."**

(a) provides diagnosis, treatment, or care for two (2) or more non-related individuals who are suffering from illness, disease, injury, or deformity; or

(b) provides obstetrical, surgical, or other medical or nursing care for two (2) or more non-related individuals.

(c) The term includes public health centers and medical facilities.

(2) 'Hospital related facility' means a facility which provides: **"Hospital related facility."**

(a) diagnosis, treatment, or care of individuals suffering from mental illness or mental retardation; or

(b) care or treatment for more than one (1) woman within six (6) months who is pregnant or who has delivered not more than ten (10) days before. The woman may not be related by blood or marriage to the person who owns or manages the facility.

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"Long-term care facility." (3) 'Long-term care facility' means a place operated for profit or not, which provides *to a total of four (4) or more persons, any of the following: nursing, personal care, and maintenance; provided that this decision applies only to such persons as are unable to properly care for themselves. 'Long-term care facility' also means a place operated for profit or not, which* provides sheltered care to four (4) or more aged persons not related to the operator by blood or marriage. It includes:

"Extended care facilities." (a) *'Extended care facilities' which are facilities primarily furnishing regular, organized, medical services for skilled convalescent and/or rehabilitative care, following transfer from a hospital after a period of acute illness;*

"Nursing homes." *(b) 'Nursing homes' which are facilities furnishing skilled nursing care and related services;*

"Personal care homes." *(c) 'Personal care homes' which are facilities providing personal care and services to residents not in need of skilled nursing care;*

"Boarding homes." *(d)* 'Boarding homes' which are facilities providing only maintenance and sheltered care;

(e) facilities providing combinations of services provided by *extended care facilities,* nursing homes, personal care homes, and boarding homes.

"Long-term care facility"—not to include. (4) 'Long-term care facility' does not include:

(a) a hospital, sanitarium, or other institution whose principal activity is the care and treatment of persons suffering from mental or nervous illness;

(b) hotels, motels, boarding houses, rooming houses, or similar accommodations.

"Person." (5) 'Person' means any person, firm, partnership, association or corporation, or governmental unit;

"Governmental unit." (6) 'Governmental unit' means the state, a state agency, any county, municipality, political subdivision of the state or an agency of any political subdivision;

"Resident." (7) 'Resident' means a person who is in a long-term care facility as a patient or for personal or sheltered care;

"Facility." (8) 'Facility' means a hospital, hospital related facility or long-term care facility.

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(9) 'Registered facility' means a place which would otherwise fall within the above definition of 'long-term care facility,' but which provides nursing, personal care, or maintenance care to more than one (1) and less than four (4) persons." "Registered facility."

Section 2. There is a new section in Title 69, chapter 52, R.C.M. 1947, numbered 69-5219.1 which reads as follows:

"69-5219.1. A **'registered facility'** will register itself with the state department of health, annually, on or before the 15th day of March of each year, by filing with said department, on a form provided by said department, such information as said department shall require." Registration.

Approved: March 10, 1969.

CHAPTER NO. 291

An Act to Amend Sections 76-104, 76-108, 76-201, 76-205 Through 76-210, 76-215 and 76-216 Deleting Provisions That the Four Appointed Members of the State Soil Conservation Committee Must Be Farmers; Giving Soil and Water Conservation Districts the Power to Borrow Money, Issue Bonds and Collect Fees for Services; Providing for Special Assessments; Raising Maximum Regular Assessment to Three Mills; Providing Directions for Raising Additional Funds, Issuing Bonds and for Investment of Funds by Soil and Water Conservation Districts; and Providing for Creation of Project Areas and Method for so Doing.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 76-104, R.C.M. 1947, is amended to read as follows: Amending clause.

"76-104. **State soil conservation committee.** A. There is hereby established, to serve as an agency of the state, and to perform the functions conferred upon it in this act, the state soil conservation committee. The state soil conservation committee shall consist of seven (7) members. The following shall serve as members of the committee: The director of the state agricultural experiment State soil conservation committee.

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station at Bozeman, Montana; the director of the state extension service at Bozeman, Montana; and the commissioner of the state department of agriculture. Four (4) members to be appointed by the governor from a list of twenty (20) submitted by the Montana *association of* soil *and water* conservation districts, at the next annual meeting of such association. In the formation of such list to be submitted to the governor, nominations shall be made by the convention and each district shall have one (1) vote. No person shall be eligible for the selection as a member unless he is at the time of selection or shall have been at some previous time a soil conservation district supervisor. From the list of twenty (20) names submitted the governor shall appoint one (1) person to serve a one-year term, one (1) person to serve a two-year term, one (1) person to serve a three-year term, and one (1) person to serve a four-year term; thereafter each year a list of five (5) names will be compiled in the same manner and submitted to the governor, from which list the governor shall appoint one (1) person to serve a four (4) year term on the state soil conservation committee. In the event a vacancy should occur for any reason among the members a successor shall be appointed by the governor to fill the unexpired term, which successor must be chosen from the last previous list submitted to the governor. The committee may invite the secretary of agriculture of the United States of America to appoint one person to serve with the above-mentioned members as a nonvoting member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

B. The state soil conservation committee may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the state for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. Upon request of the com-

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mittee for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning shall, in so far as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

C. The committee shall annually elect a chairman from its own membership. State committeemen shall continue as members of the state committee so long as they shall retain the offices by virtue of which they shall be serving on the committee. The appointed members shall hold office for four (4) years and their term of office shall be concurrent with the governor. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Ex officio members of the committee shall receive no compensation for their services on the committee. Other members of the committee shall receive *twenty dollars ($20)* per day while on duty. All members of the state committee shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the account of receipts and disbursements.

D. In addition to the duties and powers hereinafter conferred upon the state soil conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experiences of all other dis-

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tricts organized hereunder, and to facilitate an interchange of advice and experiences between such districts and co-operation between them;

(3) To co-ordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation;

(4) To secure the co-operation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts;

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable."

Amending clause.

Section 2. Section 76-108, R.C.M. 1947, is amended to read as follows:

Powers of districts and supervisors.

"76-108. **Powers of districts and supervisors.** *A.* A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and to the conservation, development, utilization, and disposal of water and the preventive and control measures and works of improvement needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures and works of improvement; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in co-operation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) *To conduct soil, vegetation, and water resources conservation projects on lands within the districts upon obtaining the consent of the owner of such lands or the necessary rights or interests in such land;*

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(3) To carry out preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, including, but not limited to, engineering operations, range management, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of section 76-102, *R.C.M. 1947,* on lands owned or controlled by this state or any of its agencies with the co-operation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands *or* the necessary rights or interests in such lands;

(4) To co-operate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion—control and prevention operations, and works of improvement for flood prevention and the conservation, development, utilization and disposal of water within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein, and all such property shall be exempt from taxation by the state or any political subdivision thereof, to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this act;

(6) To make available on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion, and for

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flood prevention and the conservation, development, utilization, *and* disposal of water;

(7) To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion, and for flood prevention, and conservation, development, utilization, and disposal of water within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable, for the effectuation of such plans, including the specification of engineering operations, range management, methods of cultivation, the growing of vegetation, cropping and range programs, tillage and grazing practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control, or erosion-prevention project, or combinations thereof, located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control, or erosion-prevention project, or combination thereof, within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control, or erosion-prevention projects, or combination thereof, within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district;

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to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not consistent with this act, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent flood-water and sediment damages thereon;

(12) *To borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness; also to refund or retire an indebtedness or lien that may exist against the district or property thereof;*

(13) To fix and revise as necessary and collect rates, fees, tolls, rents, or other charges for the use of or for services, facilities and materials furnished or provided. Revenues from these sources may be expended in carrying out the purposes and provisions of this act;

(14) To cause taxes to be levied in the same manner provided for in Title 76, chapter 2, R.C.M. 1947, for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided.

B. No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state."

Section 3. Section 76-201, R.C.M. 1947, is amended to read as follows: Amending clause.

"76-201. **Notice of organization of district filed.** The supervisors of a soil *and water* conservation district shall, within ten (10) days after the creation of the district, Notice of organization of district filed.

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or within thirty (30) days after the effective date of this act, cause a notice declaring the district organized to be filed for record in the office of the county clerk and recorder of each county in which any portion of the district is situated."

Amending clause.

Section 4. Section 76-205, R.C.M. 1947, is amended to read as follows:

Division between counties of money to be raised by regular and special assessment.

"76-205. **Division between counties of money to be raised by** *regular and special* **assessment.** If the district lies in more than one county the supervisors of the district shall divide the amount of the estimate *of the regular assessment* in the proportion to the value of the land in the district lying in each county. The value shall be determined from the last assessment rolls of the counties. The supervisors shall furnish the boards of county commissioners of each of the respective counties a statement of the part of the estimate apportioned to the county. *The estimates of the special assessments shall be divided in proportion to the value of land lying within the project area.*"

Amending clause.

Section 5. Section 76-206, R.C.M. 1947, is amended to read as follows:

Expenses to be covered by estimate.

"76-206. **Expenses to be covered by estimate.** The total amount of the estimate shall be sufficient to raise the amount of money necessary during the ensuing year to pay the incidental expenses of the district."

Amending clause.

Section 6. Section 76-207, R.C.M. 1947, is amended to read as follows:

Regular and special assessments.

"76-207. **Regular** *and special* **assessments.** Assessments levied pursuant to this act shall be known as regular *and special* assessments."

Amending clause.

Section 7. Section 76-208, R.C.M. 1947, is amended to read as follows:

Maximum regular assessment.

"76-208. **Maximum regular assessment.** The regular assessment in any one *(1)* year shall not exceed *one and one-half (1 1/2) mills* on the dollar of total taxable valuation of real property within the *district,* except that within incorporated cities and towns. The valuation shall be determined according to the last assessment roll."

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Section 8. Section 76-209, R.C.M. 1947, is amended to read as follows: Amending clause.

"76-209. **Levy of** *regular and special* **assessment.** The board of county commissioners of each county in which there lies any portion of the district may, annually, at the time of levying county taxes, levy an assessment on the taxable real property within the *district,* except that within incorporated cities and towns. It shall be known as the '..... (name of district) soil *and water* conservation district *regular* assessment,' and shall be sufficient to raise the amount reported to them in the estimate of the supervisors. Levy of regular and special assessment.

The board of county commissioners of each county in which there lies any portion of a project area may, annually, at the time of levying county taxes, levy an assessment on the taxable real property within the project area, not to exceed three (3) mills. It shall be known as '..... (name of the project area) special assessment,' and shall be sufficient to raise the amount reported to them in the estimate of the supervisors.''

Section 9. Section 76-210, R.C.M. 1947, is amended to read as follows: Amending clause.

"76-210. **Computation of rate of assessment.** The board of county commissioners shall determine the rate of assessment by deducting fifteen percent (15%) for anticipated delinquencies from the total assessed value of the taxable real property in the *district,* except *that* within incorporated cities and towns and then dividing the sum required to be raised by the remainder of the total assessed value. If a fraction of a cent occurs in a valuation of one hundred dollars ($100) it shall be taken as a full cent.'' Computation of rate of assessment.

Section 10. Section 76-215, R.C.M. 1947, is amended to read as follows: Amending clause.

"76-215. **Depository of district funds.** The treasury of the principal county is the depository of all of the *county tax* funds of the district.'' Depository of district funds.

Section 11. Section 76-216, R.C.M. 1947, is amended to read as follows: Amending clause.

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Receipt and crediting of district funds—responsibility on bond.

"76-216. **Receipt and crediting of district funds—responsibility on bond.** The treasurer of the principal county shall receive and receipt for all *county tax* money of the district and place the same to the credit of the district. He is responsible on his official bond for the safekeeping and disbursement, in the manner provided in this act, of the money of the district held by him."

Levy of additional funds.

Section 12. If after the levy of the annual assessments for the current year, the board finds that because of some unusual or unforeseen cause, funds raised through the collection of the assessments, and from other sources, will not be sufficient for the proper maintenance and operation of the district, and the works therein, the board may borrow additional funds needed to an amount not to exceed fifty cents ($.50) per acre for the lands within the district and may pledge the credit of the district for the payment of the same, or the board may request the county commissioners to issue and register warrants in anticipation of further collections. The board shall include in the levy for the ensuing year the amount required to pay the loan or to retire the warrants. The warrants shall not exceed ninety percent (90%) of the assessment for the year.

Authority of board to direct investments.

Section 13. The board of supervisors shall have the power and authority to direct the investment of funds in a sinking fund in interest bearing securities whenever in their judgment the same may be to the best interests of the district. But, all such securities shall be converted into cash in time to meet the principal on the bonds, payable from such sinking fund promptly at their maturity.

Investment of surplus funds.

Section 14. The board of supervisors of a soil and water conservation district may invest any surplus funds of the district, except county tax funds, not needed for immediate use in the operations of the district or its activities, or to pay bonds or coupons, or to meet current expenses, in interest bearing bonds or securities of the United States or of any agency of the United States if the bonds are guaranteed by the United States, or in bonds of the state of Montana or any county or municipal corporation in said state. The board of supervisors of said district may require any funds of the district to be deposited with such depository or bank as may be designated by the board, and likewise shall have authority to

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require the treasurer of the district to take from such depository a bond with corporate surety to insure payment of any such deposit, or to require such depository to pledge securities of the same kind as the district is authorized to invest its funds in, to insure payment of any such deposit.

Issuance of bonds.

Section 15. Whenever a board of supervisors deems it necessary, it may issue bonds payable from revenues, assessments, or both, or the district may use other financing as provided for by this act for the cost of works. The board of supervisors may call a special election to vote upon the proposition of issuing the bonds or may submit the proposition as a special question at a regular or general election. The notice of the election and the election itself shall be carried out in accordance with section 18 of this act. If from the returns of the election it appears that the majority of votes cast at such election were in favor of and assented to the incurring of the indebtedness, then the board of supervisors may, by resolution, provide for the issuance of such bonds. The authorization of such undertaking, the form, and content shall be carried out in accordance with section 11-2404 of the Municipal Revenue Bond Act of 1939. Validity of such bonds, use of revenue, and refunding shall be in accordance with the provisions of sections 11-2406, 11-2410, and 11-2414 of the Municipal Revenue Bond Act of 1939. Any bonds issued under this act have the same force, value, and use as bonds issued by a municipality and are exempt from taxation as property within the state of Montana.

Project areas.

Section 16. Whenever the public interest or convenience may require, and upon the petition of a county, city, village, or by a cooperative grazing association or other special purpose district, or by more than fifty percent (50%) of the freeholders affected thereby the board of supervisors is hereby authorized and empowered to establish project areas for carrying out projects to accomplish one or more of the purposes of the district and within which area special assessments can be made for carrying out project purposes.

Project areas—notice and hearing.

Section 17. Upon receipt of a petition to establish a project area the board or boards of supervisors shall cause due notice to be given of a public hearing on the

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petition. Prior to the hearing the board or boards of supervisors shall make, or cause to be made, an investigation of the need for establishment of the proposed project area and shall prepare a report of their findings. The report shall be presented and read at the hearing on the petition. If the board, or boards, of supervisors finds that it is not feasible, desirable or practical to establish the proposed project area it shall make an order denying the petition and shall state therein its reasons for so doing. If, however, the board finds that the project is desirable, proper and necessary, it shall grant the petition, establish the boundaries of the proposed project area specifying those lands that will be benefited by the proposed project area and excluding those lands that will not be so benefited, and give due notice of an election to be held in the proposed area for the purpose of determining whether or not the project area shall be created. The question shall be submitted to the electors by ballot on which the words "For creation of proposed project area" and "Against creation of proposed project area" shall appear, with a square before each proposition and directions to insert an "X" mark in the square before one or the other of said propositions as the voters may favor or oppose creation of the project area. No person shall be entitled to vote at the election unless such person possesses all the qualifications required of electors under the general laws of the state and is the owner of taxable real property situated within the boundaries of the proposed project area and located within the county in which he proposes to vote. If the majority of the votes cast at the election are in favor of creating a project area, the board, or boards, of supervisors shall create the project area and shall file with the county clerk and recorder in each county in which there lies a portion of the project area a notice of creation of the project area setting forth the purposes of the area and the boundaries thereof.

Protest—method.

Section 18. At any time within fifteen (15) days after the date of the last publication of the notice of the hearing on the petition, any owner of property liable to be assessed for the project may protest against the proposed project or the creation of the project area or both. The protest must be in writing and be delivered to the secretary of the soil and water conservation district who shall endorse thereon the date of its receipt by him. At the

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public hearing on the petition the board of supervisors shall proceed to hear and pass upon all protests made and its decision shall be final and conclusive; except when owners of more than fifty percent (50%) of the land in the proposed project area protest the project. If owners of more than fifty percent (50%) of the land protest the project, no further action may be taken for a period of six (6) months from the date of the hearing, after which a new petition may be filed.

Sufficiency of description.

Section 19. In all resolutions, notices, orders and determinations, it shall be sufficient to briefly describe the work or the project area, or both.

Project area.

Section 20. A project area may include a part or all of any district or may include areas in more than one (1) district. The affairs of a project area shall be administered by the board, or boards, of supervisors or their authorized agents.

Expenses of project area.

Section 21. When a project area has been created, the board, or boards, of supervisors shall estimate the expenses of the project area from the date of its establishment until the end of the ensuing fiscal year and before July 1, in each year thereafter shall estimate project area expenses for the fiscal year ensuing. Estimates of project area expenses may include revenue needed to pay the interest or principal of any bonded debt, costs of rights-of-way, easements, or other interest in property deemed necessary for the construction, operation and maintenance of any projects therein. The expense of the project area may, in the discretion of the board, or boards, of supervisors, be financed in whole from revenue received by regular assessments or by revenue received in part from regular assessments and in part from special assessments. Upon adoption of a budget covering necessary expenses, the board, or boards, of supervisors shall send a copy of such budget or apportionment thereof to the board of county commissioners and/or city auditor of each county and/or city in the project area. When the board, or boards, of supervisors has determined that a special assessment is necessary, the board of county commissioners of such county in which there lies any portion of a project area shall annually, at the time of levying county taxes, levy a special assessment of the taxable real property in the project area, not to exceed three (3) mills. It shall be

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known as the "..... (name of district) soil and water conservation district special assessment", and shall be sufficient to raise the income reported to them in the estimate of the supervisors. Each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its taxable valuation bears to the total taxable valuation of all the lands to be assessed. Funds produced each year by this special tax levy shall be available until spent, and if this special tax levy in any year does not produce sufficient revenue to pay the project area expenses, a fund sufficient to pay the same may be accumulated. A special assessment to defray the expenses of a project area may be spread over a term of not to exceed forty (40) years.

Exemptions.

Section 22. The provisions of this section shall not apply to the government of the United States or any department, bureau, or agency thereof, except to such extent as the government of the United States or any department, bureau, or agency thereof may desire to take advantage of its provisions, it being the express purpose and intent of this section to aid but not to interfere with the government of the United States or of any department, bureau, or agency thereof in any undertaking over which such federal authority desires to exercise full supervision and control. The provisions of this section shall not be construed to impair, limit, or repeal any right whatsoever, which the government of the United States or any department, bureau, or agency thereof has to full and complete jurisdiction, management, or control over projects over which such federal authority desires to exercise such rights, it being the purpose of this section expressly to subordinate any power of jurisdiction and to never interfere directly with such federal authority.

Assessment to constitute a lien.

Section 23. Any special assessment made and levied to defray the cost and expenses of any of the work enumerated in this act, together with any percentages imposed for delinquency and for cost of collection, shall constitute a lien against the property upon which such assessment is levied, and after the date levying such assessment, which lien can only be extinguished by payment of such assessment, with all penalties, costs and interest.

Misnomer of owner shall not void assessment.

Section 24. When under the provisions of this act special taxes and assessments are assessed against any lot or

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parcel of land as the property of a particular person, no misnomer of the owner or supposed owner or other mistake, relating to the ownership thereof, shall affect such assessment or render it void or voidable.

Project maintenance.

Section 25. Whenever any project petitioned for, or created by the state or federal government, has been made, built, constructed, erected or accomplished as in this act provided, it is hereby made the duty of the board, or boards, of supervisors, under whose jurisdiction the project area was created, to adequately and suitably maintain and preserve said improvements and fully to keep the same in proper repair and operation by contract or otherwise, in the way or manner as the board shall deem suitable and proper.

Approved: March 10, 1969.

CHAPTER NO. 292

An Act to Amend Section 84-301, R.C.M. 1947, Relating to Classification of Property for Taxation, to Include Telephone Companies Serving Rural Areas and Cities and Towns Having a Population of Eight Hundred (800) Persons or Less and With Average Circuit Miles for Each Station of More Than One and One-Quarter (1¼) miles, in Class Two; Increasing the Valuation of Improvements on Real Rroperty and Owner-Occupier Income Limitations in Class Eight; Repealing All Acts or Parts of Acts in Conflict Herewith and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-301, R.C.M. 1947, is amended to read as follows:

Classification of property for taxation.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person

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or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes *and except as provided in class five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.*

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; and all office or hotel furniture and fixtures.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those

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held by a distributor or dealer of mobile homes as part of his stock in trade.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially

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altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

(b) Freeport merchandise. Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

Any person, corporation, firm, partnership, association, or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board.

The state board of equalization shall establish standards, rules and regulations for the guidance of county assessors and assessing freeport merchandise.

Class Eight. Any improvement on real property valued at not more than *seventeen thousand five hundred dollars ($17,500),* which is owned and actually occupied by a widow, with or without minor or dependent children, or by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, or

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(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits *whose income from all sources is not more than three thousand three hundred dollars ($3,300) for a single person and four thousand five hundred dollars ($4,500) for a married couple per annum.* Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class Nine. All property not included in the eight (8) preceding classes."

Repealing clause.

Section 2. Repealing all acts or parts of acts in conflict herewith.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved: March 10, 1969.

CHAPTER NO. 293

An Act Appropriating One Hundred Twenty-Seven Thousand Five Hundred Nine Dollars ($127,509) From the General Fund and Two Hundred Five Thousand Nine Hundred Nine Dollars ($205,909) From the Federal and Private Revenue Fund to the Commission Created by This Act for the Biennium Ending June 30, 1971,

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for the Conduct of a Study of the Executive Branch of State Government; Establishing a Nine Member Commission on Reorganization of the Executive Branch of State Government; Specifying an Immediate Effective Date for a Part of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation for study of executive branch of state government,—matching federal funds.

Section 1. One hundred twenty-seven thousand five hundred nine dollars ($127,509) is appropriated from the general fund to the commission created by this act for the biennium ending June 30, 1971, to match any federal funds available for the conduct of a study of the executive branch of state government.

Section 2. Two hundred five thousand nine hundred nine dollars ($205,909) is appropriated from the federal and private revenue fund to the commission created by this act for the biennium ending June 30, 1971, for the conduct of a study of the executive branch of state government.

Section 3. No funds appropriated by section 1 of this act shall be expended unless the federal money appropriated by section 2 of this act is allotted to, and made available for, the study. On behalf and for the commission the governor shall make application for any federal funds available for the study authorized by this act and shall enter into any contracts required for receipt of federal funds with the appropriate agency or agencies of the federal government.

Commission—members.

Section 4. There is hereby created a commission on the reorganization of the executive branch of state government consisting of nine (9) members including the governor and eight (8) additional members as follows:

(1) four (4) members of the house of representatives appointed by the speaker, two (2) from each political party;

(2) four (4) members of the senate appointed by the committee on committees, two (2) from each political party. Any vacancy occurring in the members appointed in the commission shall be filled by the remaining members appointed from the same house and political party as the former member.

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Use of funds.

Section 5. The funds appropriated by sections 1 and 2 of this act shall be expended by the commission for any necessary staff and other expenses incurred in the conduct of this study. The governor, subject to the approval of the commission, shall appoint a director and shall fix his salary and compensation. The director, subject to the approval of the commission, shall hire the necessary staff and fix their compensation.

Expenses to commission members.

Section 6. Members of the commission appointed as provided in section 4 of this act shall be reimbursed for actual and necessary expenses incurred in attending meetings or conducting business at the request of the governor or the commission.

Governor to be chairman—officers.

Section 7. The governor shall be chairman of the commission. The commission members appointed as provided in section 4 of this act may elect a vice-chairman, secretary, and other necessary officers from among their members. The commission may adopt any necessary rules of procedure for the conduct of its meetings.

Meetings.

Section 8. The governor shall schedule meetings of the commission as deemed necessary, but meetings shall be held at least bimonthly. The governor shall give due notice of the time and place of the meetings to members of the commission. The director shall report progress on the study to date at each meeting.

Study.

Section 9. The director shall make a detailed and thorough study of the executive branch of state government and of the possible reorganization thereof. The director shall prepare a written report, including recommendations, and any necessary implementing legislation on the recommended reorganization of the executive branch of state government to the commission. All recommendations of the director must be approved by a vote of at least six (6) members of the commission before being adopted by the commission. The recommendations, if any, adopted by the commission, shall be reported in written form and made available to the members of the legislative assembly no later than December 1, 1970.

Authority of chairman.

Section 10. The chairman is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality, information, suggestions, estimates and

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statistics for the purpose of this act and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the director upon request made by the chairman.

Effective immediately.

Section 11. Section 4 of this act is effective upon passage and approval.

Approved: March 10, 1969.

CHAPTER NO. 294

An Act Amending Section 80-1908, R.C.M. 1947, Relating to Commitment of an Inmate of the State Prison to Warm Springs State Hospital by Providing for Temporary Transfer of an Inmate of the State Prison to Warm Springs State Hospital for Treatment or Evaluation.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 80-1908, R.C.M. 1947, is hereby amended to read as follows:

Procedure for committing state prison inmate to state hospital.

"80-1908. The procedures for committing an inmate of the state prison to the state hospital are the same as for any other person. *Provided, however, that nothing in this act shall be deemed to prevent the temporary transfer of an inmate of the state prison to the Warm Springs state hospital for treatment or evaluation. Such transfers may only be authorized by the department of institutions upon recommendation of the warden of the state prison and the superintendent of the Warm Springs state hospital and shall be for a period not to exceed sixty days and shall not exceed a total of one hundred twenty days in any twelve month period.*"

Effective immediately.

Section 2. This bill will be effective upon passage and approval.

Approved: March 11, 1969.

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CHAPTER NO. 295

An Act Relating to the Platting, Surveying and Certification of Small and Irregularly Shaped Tracts Before Sale; Amending Section 11-614, R.C.M. 1947, to Extend the Exceptions to Said Section to include State Highways, and to Include Therein in Addition to Plats on File Plans on File and to Include Therein in Addition to Lots and Blocks, Parcels.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-614, R.C.M. 1947, as amended in 1947, is amended to read as follows:

Sale of small and irregularly shaped tracts—platting and surveying.

"11-614. **Small and irregularly shaped tracts must be platted, surveyed and certified before sale.** Any person who desires to subdivide and sell or transfer any tract of land in small tracts, such as orchard tracts, vineyard tracts, acreage tracts, suburban tracts, or community tracts, containing less than the United States legal subdivision of ten (10) acres, or who shall subdivide and/or sell or transfer any irregularly shaped tract of land, the acreage of which cannot be determined without a survey, must cause the same to be surveyed, platted, certified, and filed in the office of the county clerk and recorder of the county in which said land lies, according to the provisions of this chapter before any part or portion of the same is sold or transferred; except that it will not be necessary to comply with the provisions of this chapter relating to parks, playgrounds, *and state highways*, and such *state highway* sales or transfers *may* be made by reference to the plat *or plan contemplated by section 32-2413, R.C.M. 1947,* on file and the numbers of the lots and blocks *or parcels. Said plat or plan contemplated by section 32-2413, R.C.M. 1947, shall be of a scale not less than one inch equals four hundred feet and have attached a certified copy of the state highway commission resolution establishing the location or reconstruction of such highway and shall be recorded in the office of the proper county clerk and recorder in a separate book kept for that purpose. The commission shall, at its expense, furnish each county clerk and recorder with an appropriate book which shall be indexed by project number, parcel number, cross-indexed by name of the owner affected.* It is unlawful for any further sales to be made without a full compliance

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with the provisions of this chapter, and the surveying and platting of the whole tract, showing the lots sold before the filing of the plat; provided further that until the filing of such plat, or survey, the county clerk of any county shall not record any deed which conveyed, or purports to convey, any irregular shaped tract or part of land or parcel of any such platted tract or tracts of less than the United States legal subdivision of ten (10) acres, unless the person presenting such deed for record also delivers to such county clerk for filing a plat or map which has been prepared by a surveyor or civil engineer, which plat or map shall show with particularity the legal description, and area of the land to be conveyed, except that no map or plat shall be required in those cases where the parcel of land being conveyed has been previously conveyed by deed or other instrument recorded ten (10) years or more prior to the passage of this act."

Reference to state highway plans.

Section 2. Instruments of transfer of tracts defined in this section which are acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with section 32-2413, R.C.M. 1947, and are excepted from other platting requirements of this act; provided, however, that if such tracts are not shown on highway plans of record, instruments of transfer of such tracts shall be accompanied by appropriate certificates of survey and plats when presented for recording.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved: March 11, 1969.

CHAPTER NO. 296

An Act to Increase the Tax Per Thirty-one Gallon Barrel of Beer From $1.50 to $3 for the Biennium Ending June 30, 1971, and Distributing the Amount of Tax Collected Over and Above $1.50 Per 31-Gallon Barrel to Incorporated Cities and Towns to be Expended for State Purposes Such as Law Enforcement, Maintenance of the Transportation System, and Public Health; Amending Sections 4-317, 4-324, and 4-347, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-317, R.C.M. 1947, is amended to read as follows: Amending clause.

"4-317. **Licenses of brewers—persons to whom brewers may sell beer—barrelage tax.** (1) Any brewer duly licensed as such by the United States of America, who manufactures beer in the state of Montana, upon payment of the annual license fee imposed by section 4-341 and upon presenting satisfactory evidence to the board as required by section 4-310, shall be licensed by the board in accordance with the provisions of this act and such regulations as may be prescribed by the board, to sell and deliver: Licenses of brewers—persons to whom brewers may sell beer—barrelage tax.

(a) Beer to a vendor;

(b) Beer to any licensees who are entitled to purchase beer from a brewer under this act; or

(c) Beer to the public, subject to the limitations and restrictions contained in this act; or to do any one or more of such acts of sale and delivery of beer.

(2) In addition to the annual license tax imposed by section 4-341, a tax of one dollar and fifty cents ($1.50) per barrel of thirty-one (31) gallons is hereby levied and imposed on each and every barrel of beer sold by any duly licensed brewer who manufactures beer in the state of Montana, which said barrelage tax shall be due at the end of each month and shall be payable with the brewer's monthly return or statement required to be made to the board under the provisions of section 4-311*; provided, however, that for the biennium ending June 30, 1971, the tax per barrel of thirty-one (31) gallons levied by this section shall be three dollars ($3).*"

Section 2. Section 4-324, R.C.M. 1947, is amended to read as follows: Amending clause.

"4-324. **Tax on imported beer—computation in case of barrels of capacity other than thirty-one gallons.** A tax of one dollar and fifty cents ($1.50) per barrel of thirty-one (31) gallons, is hereby levied and imposed on each and every barrel of beer manufactured out of this state and sold herein by any wholesaler, which said tax shall be due at the end of each month from said whole- Tax on imported beer—computation.

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saler, upon any such beer so sold by him during that month. As to any beer imported and sold in containers other than barrels, or in barrels of more or less capacity than thirty-one (31) gallons, the quantity content shall be ascertained and computed by the board in determining the amount of tax due, as herein provided for*; provided, however, that for the biennium ending June 30, 1971, the tax per barrel of thirty-one (31) gallons levied by this section shall be three dollars ($3).*"

Amending clause.

Section 3. Section 4-347, R.C.M. 1947, is amended to read as follows:

Revenue paid to state treasurer—disposition.

"4-347. **Revenue to be paid to state treasurer—disposition of revenue.** *Except as provided in section 4 of this act, all* fees, charges, taxes and revenues collected by or under authority of the Montana liquor control board, under the Montana Beer Act shall be paid over to the state treasurer on or before the tenth day of each and every month who shall deposit said funds to the credit of the state general fund."

Revenue for biennium ending June 30, 1971.

Section 4. For the biennium ending June 30, 1971, all revenue received from taxes on beer under sections 4-317 and 4-324, R.C.M. 1947, over and above one dollar and fifty cents ($1.50) per barrel of thirty-one (31) gallons shall be deposited with the state treasurer to the credit of the incorporated cities and towns beer tax account in the earmarked revenue fund. The state treasurer shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the 1960 federal census. For cities and towns incorporated after 1960, the census shall be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it shall cease to receive any funds under this section and the amount previously distributed to the city or town shall be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section shall be expended for state purposes such as law enforcement, maintenance of the transportation system, and public health.

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Section 5. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. Severability clause.

Approved: March 11, 1969.

CHAPTER NO. 297

An Act Providing the Maximum Salaries to be Paid the Mayors and Aldermen; Providing the Qualifications for Mayors and Aldermen; Amending Section 11-725, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-725, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"11-725. **Salaries and qualifications of mayor and alderman.** The *maximum* annual salary of a mayor must be fixed by ordinance in all classes of cities. No person shall be elected to the office of mayor or alderman in any city or town who is not a resident and freeholder within the limits of the city or town." Salaries and qualifications of mayor and alderman.

Approved: March 11, 1969.

CHAPTER NO. 298

An Act to Amend Section 11-1832, R.C.M. 1947, to Increase the Minimum Wage of Police in First and Second Class Cities.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1832, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-1832. **Minimum wage of police in first and second class cities.** That from and after *July 1, 1969,* there shall be paid to each duly confirmed member of the police department of cities of the first class of the state of Montana, Minimum wage of police in first and second class cities.

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a minimum wage for a daily service of eight (8) hours' work, of at least *five hundred twenty-five* dollars *($525)* minimum per month for the first year of service, and thereafter of at least *five hundred twenty-five* dollars *($525)* minimum per month plus one per cent (1%) of said minimum base monthly salary of *five hundred twenty-five* dollars *($525)* for each additional year service up to and including the twentieth year of such additional service. *From and after July 1, 1969, there shall be paid to each duly confirmed member of the police department of cities of the second class of the state of Montana, a minimum wage for a daily service of eight (8) hours' work, of at least four hundred seventy-five dollars ($475) minimum per month for the first year of service, and thereafter of at least four hundred seventy-five dollars ($475) minimum per month plus one per cent (1%) of said minimum base monthly salary of four hundred seventy-five dollars ($475) for each additional year service up to and including the twentieth year of such additional service."*

Approved: March 11, 1969.

CHAPTER NO. 299

An Act to Amend Section 32-3916, R.C.M. 1947, to Provide for the Payment of Future Operation and Maintenance Costs of Irrigable Lands Acquired by the State Highway Commission; This Act Shall Be in Effect From its Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-3916, R.C.M. 1947, is amended to read as follows:

Rendering irrigable lands unusable—unpaid construction costs.

"32-3916. **Rendering irrigable lands unusable—unpaid construction costs.** Whenever the commission acquires irrigable land for highway purposes, or so acquires land as to render other irrigable land unusable for irrigation, it shall pay to the owner of the irrigation or drainage project, in addition to other sums allowed by law, a proportionate share of the unpaid construction costs of the project or drainage district.

The commission shall also pay a lump sum amount to

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the district sufficient to produce on an amortized basis for a reasonable period not to exceed ninety (90) years, a sum of money equal to the annual increase in operation and maintenance costs against the remaining lands under irrigation in the district resulting from the severance from the district of the lands acquired by the commission and not overcome by bringing in new or additional land under irrigation. For the purpose of determining the amount of said lump sum payment, the annual operation and maintenance assessment of the district shall be considered to be the average for the five (5) years, or so many years as the district has assessment experience, if less than five (5) years, preceding the date of acquisition."

Section 2. This act shall be in effect from its passage and approval. **Effective immediately.**

Approved: March 11, 1969.

CHAPTER NO. 300

An Act to Prohibit the Business of Debt Adjusting When Conducted for Profit, Making Certain Acts Unlawful, and Prescribing Penalties Therefor; Excluding Certain Persons From the Provisions of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act the following words and terms shall have the following meanings unless the context clearly requires a different meaning. The singular shall include the plural and the masculine gender the feminine gender.

(1) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity. **"Person."**

(2) "Debt adjusting" means the making of a contract, express or implied, with a debtor whereby the debtor agrees to pay a certain amount of money or other thing of value periodically to the person engaged in the debt adjusting business who shall, for a consideration, distribute the same among certain specified creditors in accordance with a plan agreed upon. The term includes debt adjustment, budget counseling, debt management **"Debt adjusting."**

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or debt pooling service or the holding of oneself out, by words of similar import, as providing services to debtors in the management of their debts and contracting with the debtor for a fee to (a) effect the adjustment, compromise, or discharge of any account, note, or other indebtedness, of the debtor, or (b) receive from the debtor and disperse to his creditors any money or other thing of value.

Violation—penalty.

Section 2. No person shall engage in the business of debt adjusting. Whoever shall engage in the business of debt adjusting shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500), or be imprisoned not more than six (6) months, or both.

Exemptions.

Section 3. **Exemptions.** This act shall not apply to:

(1) Those situations involving debt adjusting incurred incidentally in the lawful practice of law in this state.

(2) Banks and fiduciaries, as duly authorized and admitted to transact business in this state and performing credit and financial adjusting service in the regular course of their principal business.

(3) Title insurers and abstract companies, while doing an escrow business.

(4) Judicial officers or others acting under court orders.

(5) Nonprofit or charitable corporations or associations engaged in debt adjusting.

(6) Those situations involving debt adjusting incurred incidentally in connection with the lawful practice as a certified public accountant.

(7) Bona fide trade or mercantile associations in the course of arranging adjustment of debts with business establishments.

(8) Employers for their employees.

(9) Any person (other than a collection agency) whose maximum fees or charges for all services in adjusting the debtor's debts are ten percent (10%) of the amounts as paid by the debtor.

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(10) Any person who, at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting the debts.

Section 4. This act is effective on its passage and approval. **Effective immediately.**

Approved: March 11, 1969.

CHAPTER NO. 301

An Act to Permit Cities or Towns Power to Sell or Trade Property to any County or Political Subdivision; and to Provide for the Purchase Thereof, by a City or Town Without Appraisal.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A city or town upon first passing a resolution of intent to do so and upon giving notice of such intent by publication once a week for three (3) weeks in a newspaper published in such city or town or county in which located, shall have power to sell or trade, as the interests of its inhabitants require, any property, however held or acquired, which is not necessary for the conduct of the city or town business, to any county or political subdivision, without an ordinance, public notice, public auction, bids, or appraisal; proceeds, if any, shall be distributed according to law. Such transactions shall be made by resolution of councils or commissions involved and entered in the minutes of the regular or special meetings. **Cities or towns may sell or trade property to county.**

Section 2. A city or town shall have power to trade with, or purchase from, any county or political subdivision such property without an appraisal of the property traded or purchased. **Appraisal not required.**

Approved: March 11, 1969.

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CHAPTER NO. 302

An Act to Permit Counties Power to Sell or Trade Property to any City, Town or Political Subdivision; and to Provide for the Purchase Thereof, by a County Without Appraisal.

Be it enacted by the Legislative Assembly of the State of Montana:

Counties may sell or trade property to cities or towns.

Section 1. A county upon first passing a resolution of intent to do so and upon giving notice of such intent by publication once a week for three (3) weeks in a newspaper published in such city, town or county in which located, shall have power to sell or trade, as the interests of its inhabitants require, any property, however held or acquired, which is not necessary for the conduct of the county business, to any city, town, or political subdivision, without an ordinance, public notice, public auction, bids, or appraisal; proceeds, if any, shall be distributed according to law. Such transactions shall be made by resolution of county commissioners involved and entered in the minutes of the regular or special meetings.

Appraisal not required.

Section 2. A county shall have power to trade with, or purchase from, any city, town or political subdivision such property without an appraisal of the property traded or purchased.

Approved: March 11, 1969.

CHAPTER NO. 303

An Act to Establish the Montana Commission on Alcohol and Drug Dependence Within the Department of Health.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose.

Section 1. It is the purpose of this act and the policy of this state to recognize alcohol and drug dependence as problems affecting the health, safety, morals, economy, and general welfare of this state; to recognize alcohol and drug dependence as problems subject to treatment; and to recognize the sufferer of alcohol, drug dependence, or both, as worthy of treatment and rehabilitation. It is

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the intent of this act to establish means whereby the appropriate resources of this state may be focused fully and effectively upon the problems of alcohol and drug dependence and utilized in implementing programs for the control and treatment of these problems.

Commission on alcohol and drug dependence—members.

Section 2. (1) There is a Montana commission on alcohol and drug dependence hereafter called "the commission" in the state department of health hereinafter referred to as "the department." The commission shall consist of fourteen (14) members as follows:

(a) Seven (7) members appointed by the governor, with the advice and consent of the senate, from citizens of the state who are known to have knowledge and interest in the subject of alcohol and drug dependence. Three (3) members shall be appointed from each congressional district in the state, and one (1) member shall be appointed from the state at large;

(b) Seven (7) ex officio members, or persons named by them, as follows:

(i) the executive officer of the department of health,

(ii) the supervisor of the division of mental hygiene,

(iii) the state administrator of public welfare,

(iv) the director of the department of institutions,

(v) the highway patrol chief,

(vi) the superintendent of public instruction,

(vii) the director of the division of vocational rehabilitation.

(2) Initial appointments shall be made within thirty (30) days after this act becomes effective, and the governor shall designate two (2) members who serve for a term of two (2) years, two (2) members who serve for a term of four (4) years, and three (3) members who serve for a term of six (6) years. After initial appointments, appointed members shall serve for a term of six (6) years. Appointments to fill vacancies shall be made by the governor for the unexpired term in the same manner as other appointments.

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Removal.

(3) Appointed members of the commission may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office.

Per diem.

(4) Appointed members of the commission shall receive per diem at twenty-five dollars ($25) for each day they are actually engaged in the transaction of business for the commission and shall be reimbursed for actual and necessary expenses.

Officers.

(5) Appointed members shall annually elect from their number, a chairman, vice-chairman, and secretary.

(6) The commission shall meet at least once every three (3) months and at other times at the call of the chairman or the request of a majority of the appointed members.

Duties of commission.

Section 3. (1) The commission shall: (a) plan, promote, and assist in the support of alcohol and drug dependence prevention, treatment, and control programs;

(b) conduct, sponsor, and support research, investigations and studies, including evaluation, of all phases of alcohol and drug dependence;

(c) assist in the development of educational and training programs relative to alcohol and drug dependence, and carry on programs to assist the public, and technical and professional groups, in becoming fully informed about alcohol and drug dependence;

(d) promote, develop, and assist, financially and otherwise, alcohol and drug dependence programs administered by other state agencies, local government agencies, and private nonprofit organizations and agencies;

(e) encourage and promote effective use of facilities, resources, and funds in the planning and conduct of programs and activities for prevention, treatment, and control of alcohol and drug dependence and, in this respect, cooperate with and utilize to the maximum possible extent the resources and services of federal, state, and local agencies.

(2) To carry out the purposes of this act, the department may: (a) accept gifts, grants, and donations of money and property from public and private sources;

(b) enter into contracts;

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(c) acquire and dispose of property necessary.

Allocation of funds.

Section 4. The department may apply for and receive grants, allotments, or allocations of funds or other assistance for purposes pertaining to the problems of alcohol and drug dependence, or related social problems, under laws and rules of the United States, any other state, or any private organization. The department may cooperate with any other government agency or private organization in programs on alcohol and drug dependence related social problems. In carrying out cooperative programs, the department may make grants of financial assistance to government agencies and private organizations under terms and conditions agreed upon.

Administration of act.

Section 5. The department shall administer the provisions of this act.

Cooperation of state and local agencies.

Section 6. All agencies of state government, local government, and all state and local government employees shall, upon request, cooperate with the department in its activities under this act, but nothing in the act shall be construed to give the department control over any state or local agency or employee, unless otherwise provided by law.

Federal and private funds.

Section 7. Funds available to the department from federal or private sources for use in alcohol and drug dependence prevention, treatment, and control programs, shall be deposited with the state treasurer to the account of the department in the federal and private revenue fund.

Severability clause.

Section 8. It is the intent of the legislative assembly that if part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 11, 1969.

CHAPTER NO. 304

An Act Amending Section 16-1601 (2), R.C.M. 1947, to Authorize County Commissioners to Create Special Improvement Districts for the Purpose of Protecting the

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Safety of the Public From Open Ditches Carrying Irrigation and Other Water.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1601 (2), R.C.M. 1947, is amended to read as follows:

Rural improvement districts—creation and objects.

"16-1601 (2). **Rural improvement districts—creation and objects.** Whenever the public interest or convenience may require, and upon the petition of sixty per centum (60%) of the freeholders affected thereby, the board of county commissioners is hereby authorized and empowered to order and create special improvement districts in thickly populated localities outside of the limits of incorporated towns and cities for the purpose of building, constructing, or acquiring by purchase *devices intended to protect the safety of the public from open ditches carrying irrigation or other water,* and maintaining sanitary and storm sewers, light systems, waterworks plants, water systems, sidewalks and such other special improvements as may be petitioned for.

The owner or owners of open ditches carrying irrigation or other water, shall not be included in any rural improvement districts under this act for the purpose of assessment to support the rural improvement districts for the installation, repair, or maintenance of any protective devices. Such devices or improvements shall provide access to, and shall not be constructed so as to hinder the operation and maintenance of the ditch."

Approved: March 11, 1969.

CHAPTER NO. 305

An Act Relating to Classification of Property to Include Certain Telephone Companies in Class Two; Increasing the Valuation of Improvements on Real Property and Owner-Occupier Income Limitations in Class Eight; and Amending Sections 84-301, 84-302, R.C.M. 1947; Repealing All Acts or Parts of Acts in Conflict Herewith and Providing for an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-301, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows: Classification of property for taxation.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes *and except as provided in Class Five (5) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.*

Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, to-

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gether with furniture and fixtures used therewith, except mobile homes; and all office or hotel furniture and fixtures.

Class Four. (a) All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1,

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1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

(b) **Freeport merchandise.** Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

Any person, corporation, firm, partnership, association, or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board.

The state board of equalization shall establish stand-

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ards, rules and regulations for the guidance of county assessors and assessing freeport merchandise.

Class Eight. Any improvement on real property valued at not more than *seventeen thousand five hundred dollars ($17,500),* which is owned and actually occupied by a widow, with or without minor or dependent children, or by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits *whose income from all sources is not more than three thousand three hundred dollars ($3,300) for a single person and four thousand five hundred dollars ($4,500) for a married couple per annum.* Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class Nine. All property not included in the eight (8) preceding classes."

Amending clause.

Section 2. Section 84-302, R.C.M. 1947, is amended to read as follows:

Basis for imposition of taxes.

"84-302. **Basis for imposition of taxes.** As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall be taken as follows:

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Class 1. One hundred percent (100%) of its true and full value.

Class 2. Twenty percent (20%) of its true and full value.

Class 3. Thirty-three and one-third percent (33 1/3%) of its true and full value.

Class 4. Thirty per cent (30%) of its true and full value.

Class 5. Seven percent (7%) of its true and full value.

Class 6. Forty percent (40%) of its true and full value.

Class 7. Seven percent (7%) of its true and full value.

Class 8. *Fifteen percent (15%)* of its true and full value.

Class 9. Forty percent (40%) of its true and full value."

Section 3. Repealing all acts or parts of acts in conflict herewith. **Repealing clause.**

Section 4. This act is effective on its passage and approval. **Effective immediately.**

Approved: March 11, 1969.

CHAPTER NO. 306

An Act Amending Sections 11-4001, 11-4002 and 11-4003, R.C.M. 1947, to Authorize Cities and Towns to Require Protective Devices Around Water Which Flows in an Open Ditch Regardless of Whether the Ditch Terminated Within Corporate Limits; and Amending Section 11-4006, R.C.M. 1947, Authorizing a City or Town to Create a Special Improvement District for the Purpose of Protecting the Public From Open Ditches.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-4001, R.C.M. 1947, is amended to read as follows: **Amending clause.**

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Purpose.

"11-4001. **Purpose of act.** The legislative assembly declares that the control of ditch water in inhabited areas of Montana is affected with the public interest. The purpose of this act is to prevent drowning of children in ditches filled or partially filled with water within the limits of an incorporated city or town. This act shall be deemed an exercise of the police power of the state in and for the protection of the welfare, health, peace and safety of the people of Montana.

Nothing in this act shall be construed as intending to effectuate the abandonment of any valid water right. This act shall be construed merely as a regulation in the public interest so that the diversion, transportation and use of water in such ditches in cities and towns shall be in a safe manner, as defined by this act."

Amending clause.

Section 2. Section 11-4002, R.C.M. 1947, is amended to read as follows:

Open ditch declared nuisance.

"11-4002. **Open ditch declared nuisance.** Notwithstanding any provision contained in Title 89, Revised Codes of Montana, 1947, or any law pertaining to the use of water in Montana, it is hereby declared that water which flows through the limits of an incorporated city or town in an open ditch is a public nuisance, if such city or town declares it to be such nuisance, acting through its governing body."

Amending clause.

Section 3. Section 11-4003, R.C.M. 1947, is amended to read as follows:

Powers of governing body.

"11-4003. **Powers of governing body.** The governing body of the city or town is hereby given the power;

(1) To investigate the dangerous condition of such ditches within the corporate limits and to declare any such ditch a public nuisance, and

(2) To determine the measures necessary to remove the danger and public nuisance, including fencing, use of culvert or other protective device based upon standards to be determined by such city or town."

Amending clause.

Section 4. Section 11-4006, R.C.M. 1947, is amended to read as follows:

Commercial irrigation ditches exempt.

"11-4006. **Commercial irrigation ditches exempt.** This act does not apply to ditches carrying water used for

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commercial irrigation purposes. *However, whenever the public interest or convenience may require, a city or town is hereby authorized and empowered to create a special improvement district for the purpose of building, constructing, acquiring by purchase, and maintaining, devices intended to protect the safety of the public from open ditches carrying water. Such devices or improvements shall provide access to, and shall not be constructed so as to hinder the operation and maintenance of the ditch. The owner or owners of open ditches carrying irrigation or other water, shall not be included in any special improvement district under this act for the purpose of assessment to support the special improvement districts for the installation, repair, or maintenance of any protective devices."*

Approved: March 11, 1969.

CHAPTER NO. 307

An Act to Amend Section 82-1149, R.C.M. 1947, Relating to Establishment of Maximum Prices for the Publication of Legal Notices Required by Law of State Agencies; and Repealing all Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-1149, R.C.M. 1947, is hereby amended to read as follows: Amending clause.

"82-1149. **Establishment of prices for state printing.** Hereafter in all cases and instances where any publication is required by law, or is duly authorized, to be made, executed or accomplished by or for or on behalf of the state of Montana, or any of the institutions of said state or any of the departments, boards, bureaus, or commissions thereof, of any of the officers, agents or employees of the state when acting within the scope of their lawful authority and for the benefit of the state of Montana, the same shall be published in a newspaper printed and published in the state of Montana, and of general bona fide and paid circulation with second class mailing privilege, and having been printed and published continuously in the state of Montana for at least twelve (12) months Establishment of prices for state printing.

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immediately preceding such publication; the price for such publication and by whomsoever accomplished shall not exceed the following rate and standard hereby established and prescribed as the maximum rate and standard for all publications as aforesaid.

(a) For every folio of one hundred (100) words, or any fraction thereof, *two dollars and twenty-five cents ($2.25)* for the first insertion, and *one dollar and twenty-five cents ($1.25)* for each subsequent insertion thereof required by law to be made.

(b) For rule and figure work, *three dollars and seventy-five cents ($3.75),* for every folio of one hundred (100) words or any fraction thereof, for the first insertion, and *one dollar and twenty-five cents ($1.25)* for each subsequent insertion thereof required by law to be made."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 11, 1969.

CHAPTER NO. 308

An Act to Amend Section 15-2226, R.C.M. 1947, Relating to Business Corporations by Amending the Procedure for Calling a Special Meeting of the Shareholders.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 15-2226, R.C.M. 1947, is amended to read as follows:

Meetings of shareholders.

"15-2226. **Meetings of shareholders.** Meetings of shareholders may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation.

An annual meeting of the shareholders shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the shareholders may be called by the president, the board of directors, the holders of not

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less than *one-half (1/2)* of all the shares entitled to vote at the meeting, or such other officers or persons as may be provided in the articles of incorporation or the by-laws."

Approved: March 11, 1969.

CHAPTER NO. 309

An Act to Amend Section 15-2236, R.C.M. 1947, Relating to Business Corporations by Amending the Provisions for the Removal of the Board of Directors.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 15-2236, R.C.M. 1947, is amended to read as follows: Amending clause.

"15-2236. **Vacancies—removal of directors.** Any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders. Any directorship to be filled by reason of the removal of one or more directors by the shareholders may be filled by election by the shareholders at the meeting at which the director or directors are removed. Vacancies—removal of directors.

At a meeting called expressly for that purpose, directors may be removed in the manner provided in this section. The entire board of directors may be removed, with or without cause, by a vote of the holders of *two-thirds (2/3)* of the shares then entitled to vote at an election of directors, *unless otherwise provided by the articles of incorporation or by-laws; if the corporation has fewer than one hundred (100) shareholders, the entire board of directors will be removed by a vote of a majority of the shares then entitled to vote.*

If less than the entire board is to be removed, no one of the directors may be removed if the votes cast against

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his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which he is a part."

Approved: March 11, 1969.

CHAPTER NO. 310

An Act to Repeal Sections 38-601, 38-602, 38-603, 38-604, 38-605, 38-606, 38-607, and 38-608, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Sections 38-601, 38-602, 38-603, 38-604, 38-605, 38-606, 38-607, and 38-608, R.C.M. 1947, are hereby repealed.

Effective immediately.

Section 2. This act shall be effective upon passage and approval.

Approved: March 11, 1969.

CHAPTER NO. 311

An Act Requiring the Highway Commission to Fence Highways That Run Through Open Range Where Livestock Present a Safety Hazard to the Motorist; Defining Open Range for the Purpose of This Act; and Authorizing the Highway Commission to Determine Where in Open Range Areas There is a Sufficient Safety Hazard From Livestock to Warrant Fencing.

Be it enacted by the Legislative Assembly of the State of Montana:

Highway commission to fence highways where livestock create hazard.

Section 1. (1) The highway commission shall fence the right-of-way of any part of the state highway system that is constructed and/or reconstructed, after the effective date of this act, through open range where livestock present a hazard to the safety of the motorist where a fence is constructed, adequate stock gates or stock passes, as necessary, shall be provided to make land on either side of the highway usable for livestock purposes.

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(2) For the purpose of this act the term "open range" means all private and public lands in the state of Montana not enclosed by a fence of not less than four (4) wires in good repair but does not include herd districts as created and defined by section 46-1501, R.C.M. 1947.

Section 2. The highway commission shall designate the open range areas where livestock present a sufficient safety hazard to the motorist to warrant fencing by the highway commission. Open range areas.

Approved: March 11, 1969.

CHAPTER NO. 312

An Act to Provide for Maintenance of State Fire Marshal's Office; and Amending Section 82-1231, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-1231, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-1231. **Tax on fire insurance premiums for maintenance of state fire marshal's office.** Each insurer authorized to effect insurance on risks enumerated in subsection two of section 11-1919, doing business in this state shall pay to the state auditor and commissioner of insurance ex officio, during the month of February or March in each year, in addition to the taxes on premiums required by law to be paid by it, a tax of *one-half* of one per cent *(1/2* of 1%) on the fire portion of the direct premiums on such risks received during the calendar year next preceding, after deducting cancellations and return premiums." Tax on fire insurance premiums—fire marshal's office.

Approved: March 11, 1969.

CHAPTER NO. 313

An Act Providing for the Financial Administration of Interlocal Cooperative Agreements Under the Provision of Chapter 49, Title 16, R.C.M. 1947, That Involve School Districts.

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Be it enacted by the Legislative Assembly of the State of Montana:

Financial administration of school districts.

Section 1. School districts or school districts and other public agencies entering into an interlocal cooperative agreement under the provisions of chapter 49, Title 16, R.C.M. 1947, shall be subject to the provisions of this act for the purposes of the financial administration of such agreement.

Prime agency.

Section 2. For the purposes of this act, the prime agency shall be the school district or other public agency vested with the financial administration of the interlocal cooperative agreement under the terms of such agreement and the cooperating agency shall be any school district or public agency other than the prime agency who is a party to the contract creating the interlocal cooperative agreement.

Special fund.

Section 3. When the prime agency is a school district, it is hereby authorized and required to establish a special nonbudgeted fund as provided in section 75-3722, R.C.M. 1947, for the purpose of the financial administration of the interlocal cooperative agreement. All revenues received, including federal, state, or other types of grant payments in direct support of the agreement and the financial support provided by cooperating agencies, shall be deposited in such special nonbudgeted fund. All financial support of the agreement contributed by the school district, designated as the prime agency, shall be transferred to the special nonbudgeted fund from any fund maintained by such school district by resolution of the board of trustees; provided that the transfer shall be made from a fund to finance expenditures of the interlocal cooperative agreement that are comparable to the statutory provisions creating such fund and within the currently adopted budget; and provided further that no transfer shall be made from fund VIII, miscellaneous federal funds, as provided in section 75-3722, R.C.M. 1947, without the express approval of the state superintendent. All expenditures in support of the interlocal cooperative agreement shall be made from the special nonbudgeted fund established by the school district prime agency; provided that expenditures in support of such agreement may be made from fund VIII, miscellaneous federal funds when the express approval of the state superintendent is given.

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Transfer of financial support.

Section 4. When a school district is the cooperating agency, it is hereby authorized to transfer its financial support of the agreement under the interlocal cooperative contract to the prime agency by school district warrant. Such financial support may be provided from any fund maintained by the school district; provided that the fund utilized for the financial support shall finance only those expenditures of the interlocal cooperative agreement that are comparable to the statutory provisions creating such fund and within the currently adopted budget; and provided further that no financial support shall be financed from fund VIII, miscellaneous federal funds without the express approval of the state superintendent of public instruction.

Application to school districts.

Section 5. The statutory provisions of Title 75, R.C.M. 1947, shall apply to any and all school districts who are parties to an interlocal cooperative contract unless the specific provisions of this act or chapter 49, Title 16, R.C.M. 1947, are applicable.

Approved: March 11, 1969.

CHAPTER NO. 314

An Act Providing for Regulation of the Possession and Sale of Dangerous Drugs in the State of Montana; Defining Dangerous Drugs to Include Depressant, Stimulant, Hallucinogenic and Narcotic Drugs and Defining Certain Words and Phrases in Connection Therewith; Defining Who May Lawfully Sell and Possess Dangerous Drugs; Providing for the Fraudulent Obtaining of Dangerous Drugs or the Alteration of Labels; Providing for the Enforcement of Unlawful Sale and Possession; Providing for the State Board of Pharmacy to Regulate, License and Supervise, and Designate Other Dangerous Drugs After Proper Notice and Hearing; Amending Section 95-302, R.C.M. 1947, to Exclude Trial Jurisdiction in the Justices' Courts in Cases Commenced Under This Act; Repealing Sections 27-724, 27-725, 54-101 Through 54-128 Inclusive, 94-35-123, 94-35-148, 94-35-199, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

"Person." Section 1. **Definition of terms.** (a) "Person" includes an individual, partnership, corporation, association, trust or other institution or entity.

"Drug." (b) "Drug" means articles recognized in the official United States Pharmacopoeia, official Homopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them.

"Depressant drugs." (c) "Depressant drugs" include: Amobarbital, secobarbital, pentobarbital, phenobarbital, barbituric acid, glutethimide, meprobamate, chloral hydrate, paraldehyde, ethclorvynol, and ethinamate, or any product, derivative, compound or preparation containing any of the above listed drugs.

"Stimulant drugs." (d) "Stimulant drugs" include: Amphetamine, dextroamphetamine, mephentermine, methamphetamine and phenemetrazine, or any product, derivative or compound or preparation of the above listed drugs.

"Hallucinogenic drugs." (e) "Hallucinogenic drugs" include: Marihuana, lysergic acid diethylamide, psilocybin, dimethyltryptamine, methyltryptamine, peyote and mescaline or any product, derivative, compound or preparation of the above listed drugs.

"Narcotic drugs." (f) "Narcotic drugs" include: Opium, morphine, heroin, codeine, ethylmorphine, dihydromorphinone, isonipicaine, methadone and cocaine or any product, derivative, compound or preparation of the above listed drugs.

"Dangerous drug." (g) "Dangerous drug" means any depressant, stimulant, hallucinogenic or narcotic drug.

"Manufacture, etc." (h) The terms "manufacture, preparation, cultivation, compounding, or processing" shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package in furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer.

"Warehousing." (i) The term "warehousing" means the receipt and storage of goods for compensation prior to final delivery or sale to the ultimate consumer.

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(j) The term "wholesaling, jobbing or distribution" means the selling or distribution to any person who is not the ultimate user or consumer of such drug. "Wholesaling, etc."

(k) "Sell" means to sell, exchange, give or dispose of to another, or to offer or agree to do the same. "Sell."

(l) "Practitioner" means a physician, dentist, veterinarian, podiatrist or other person permitted by law to prescribe drugs. "Practitioner."

(m) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares dangerous drugs, but does not include a pharmacist who compounds dangerous drugs to be sold or dispensed on prescriptions. "Manufacturer."

(n) Masculine words shall include the feminine and neuter and singular includes the plural.

(o) The term "prescription" shall be given the meaning it has in R.C.M. 1947, Section 66-1502(n). "Prescription."

(p) This act may be cited as the "Montana Dangerous Drug Act." "Montana Dangerous Drug Act."

Section 2. **Authority of the state board of pharmacy to enact regulations, impose fees and designate dangerous drugs.** Authority of board.

(a) Registration and licensing. The state board of pharmacy is hereby authorized to register manufacturers, and to license, regulate and supervise the warehousing, wholesaling, distributing, sale, purchase, dispensing and any other processing of all dangerous drugs, which is necessary to carry out the enforcement of this act. Registration and licensing.

(b) **Fees.** The state board of pharmacy is hereby authorized to require registration and license fees in an amount to be fixed by the board, which fees shall not exceed one hundred dollars ($100) per year. Fees.

(c) **Dangerous drug designation.** Any drug designated by the state board of pharmacy as a dangerous drug because of its depressant, stimulant, hallucinogenic or narcotic effects, after notice, hearing and publication as required by law, shall be added to the appropriate definitions of section (c), (d), (e), or (f) of section 1 for the purpose of the Montana Dangerous Drug Act. Dangerous drug designation.

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Penalties.

(d) **Penalties.** Failure to register or be licensed as provided for shall be a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed one (1) year, or both.

Dangerous drugs—persons and preparations exempt.

Section 3. **Dangerous drugs — persons and preparations exempt from the prohibition.** (1) The following medicinal preparations are excepted from the designated criminal offenses of sections 4 and 5 of this act when combined with therapeutically active or inactive non-narcotic ingredients:

(a) A preparation which contains not more than 64.8 mg. (1 grain) of codeine or any of its salts, per one fluid ounce, or one avoirdupois ounce.

(b) Any preparation which contains cotarnine, nalorphine, narceine, noscapine, or papaverine in any quantity. These medicinal preparations must contain, in addition to the narcotic drug in it, other medicinal qualities; and be administered, dispensed and sold in good faith as a medicine, not for the purpose of evading this act.

(2) The following persons are excepted from the designated criminal offenses of sections 4 and 5 of this act while acting in the ordinary and authorized course of their business, profession, occupation, employment or religious activity and whose activities in connection with dangerous drugs are solely as specified in this section;

(a) Persons regularly engaged in manufacture, preparation, cultivation, compounding and processing who are qualified in conformance with law, in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, wholesale druggists, or by direct shipment, (1) to pharmacies or to hospitals, clinics, public health agencies, long term care facilities, or practitioners, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners, or (2) to laboratories or research or educational institutions for their use in research, teaching or chemical analysis.

(b) Suppliers (otherwise qualified in conformance with law) of persons regularly engaged in manufacture, preparation, cultivation, compounding and processing referred to in subsection (a).

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(c) Wholesale druggists who maintain establishments in conformance with law and are regularly engaged in supplying prescription drugs (1) to pharmacies, or to hospitals, clinics, public health agencies, long term care facilities, or practitioners, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners or (2) to laboratories or research or educational institutions for their use in research, teaching or clinical analysis.

(d) Registered pharmacists who are authorized to dispense dangerous drugs.

(e) Practitioners who prescribe or administer dangerous drugs.

(f) Persons associated with a bona fide educational institution who use dangerous drugs in research, teaching or chemical analysis and not for sale.

(g) A common on contract carrier or warehouseman, whose possession of any dangerous drug is in the usual course of his business or employment as such.

(h) Officers and employees of the state, or a political subdivision of the state, while acting in the course of their official duties.

(i) An employee or agent of any person described in pargraph (a) through (g) of this subsection, and nurse or other medical technician under the supervision of a practitioner who administers dangerous drugs, while such employee, nurse or medical technician is acting in the course of his employment or occupation and not on his own account.

(j) A person to whom or for whose use any dangerous drug has been prescribed, sold, or dispensed by an authorized practitioner or pharmacist may lawfully possess such drug.

(k) Any bona fide religious organization incorporated under the laws of the state of Montana while transporting, possessing or using peyote (pellote) for religious sacramental purposes.

Nothing in this section shall be construed to prohibit or interfere with the discretion of a practitioner in good faith to prescribe or administer any dangerous drug to

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a patient for the treatment of a disease or condition according to his needs and to medical practice. Addiction, dependence or habitual use of a dangerous drug shall be deemed a "disease or condition" and the prescription, administration or dispensation of a dangerous drug to relieve conditions incident to such addiction or habitual use shall be deemed "treatment of a disease or condition."

Nothing in this act shall be construed to relieve any person from any requirement prescribed by or under authority of Title 27, R.C.M. 1947.

Criminal sale of dangerous drugs.

Section 4. **Criminal sale of dangerous drugs.**

(a) A person commits the offense of a criminal sale of dangerous drugs if he sells, manufactures, prepares, cultivates, compounds or processes any dangerous drug as defined in this act and does not come within the exceptions of section 3.

(b) A person convicted of criminal sale of dangerous drugs shall be imprisoned in the state prison for a term not less than one (1) year nor more than life. Any person of the age of 21 years or under convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence.

Criminal possession of dangerous drugs.

Section 5. **Criminal possession of dangerous drugs.**

(a) A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug as defined in this act and does not come within the exceptions of section 3.

(b) A person convicted of criminal possession of dangerous drugs shall be imprisoned by imprisonment in the state prison not to exceed five (5) years. Any person of the age of 21 years or under convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence.

Fraudulently obtaining dangerous drugs.

Section 6. **Fraudulently obtaining dangerous drugs.** A person commits the offense of fraudulently obtaining dangerous drugs if he obtains or attempts to obtain a dangerous drug by (a) fraud, deceit, misrepresentation or subterfuge; (b) falsely assuming the title of, or representing himself to be a manufacturer, wholesaler, prac-

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titioner, pharmacist, owner of a pharmacy, or other persons authorized to possess dangerous drugs; (c) the use of a forged, altered or fictitious prescription; (d) the use of a false name or a false address on a prescription or; (e) the concealment of a material fact.

Altering labels on dangerous drugs.

Section 7. **Altering labels on dangerous drugs.** A person commits the offense of altering labels on dangerous drugs if he affixes a false, forged, or altered label to a package or receptacle containing a dangerous drug, or otherwise misrepresents the package containing a dangerous drug.

Penalty.

Section 8. **Penalty for fraudulently obtaining dangerours drugs or altering the labels of dangerous drugs.** A person convicted of fraudulently obtaining dangerous drugs or altering the labels on dangerous drugs shall be imprisoned in the county jail for a term not to exceed six (6) months.

Alternative sentencing authority.

Section 9. **Alternative sentencing authority.**

A person convicted of criminal possession of dangerous drugs, fraudulently obtaining dangerous drugs or altering labels on dangerous drugs, if he is shown to be an excessive or habitual user of dangerous drugs either from the face of the record or by a pre-sentence investigation, may in lieu of imprisonment, be committed to the custody of any institution for rehabilitative treatment for not less than six months nor more than two (2) years.

Jurisdiction.

Section 10. **Jurisdiction.** The district court shall have exclusive trial jurisdiction over all prosecutions commenced under the Montana Dangerous Drug Act.

Amending clause.

Section 11. Section 95-302(a) R.C.M. 1947, shall be amended to read as follows:

Jurisdiction of justice courts.

"95-302. **Jurisdiction of the justice of the peace courts.** The justices' courts have:

(a) Jurisdiction of all misdemeanors punishable by a fine not exceeding five hundred dollars ($500) or imprisonment not exceeding six (6) months, or both such fine and imprisonment; *excluding jurisdiction in cases commenced under the Montana Dangerous Drug Act except to act as examining and committing courts and to conduct preliminary hearings as provided in subsection (c).*

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(b) Concurrent jurisdiction, with district courts, of all misdemeanors punishable by a fine only, not exceeding fifteen hundred dollars ($1,500); and

(c) Jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings."

Power of board.

Section 12. The following power of the Montana state board of pharmacy shall be inserted following section 66-1504, R.C.M. 1947, and shall be cited as section 66-1504.1, R.C.M. 1947:

(a) The Montana state board of pharmacy shall have the power to designate by regulation any drug that is not now included under the present Montana Dangerous Drug Act as coming within that act when: (1) the board after investigation finds such drug to have a potential for abuse because of its depressant, stimulant, hallucinogenic or narcotic effect; (2) the appropriate federal drug authorities have promulgated regulations on such drug because of its depressant, stimulant, hallucinogenic or narcotic effect or its potential for abuse. The board may from time to time appoint a committee of experts to advise them with regard to any of the above matters involved in determining whether a regulation should be proposed.

(b) Before any drug shall be designated as a dangerous drug the board shall hold a public hearing. Notice of the hearing specifying the drug concerned shall be published at least once a week for three (3) consecutive weeks in five (5) newspapers of general circulation throughout the state.

(c) The regulations of the board in designating a substance as a dangerous drug coming within the Montana Dangerous Drug Act shall be published in such manner to such extent as the board may deem necessary to adequately notify the public.

Saving clause.

Section 13. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Repealing clause.

Section 14. Sections 27-724, 27-725, 54-101, 54-102, 54-103, 54-104, 54-105, 54-106, 54-107, 54-108, 54-109, 54-110, 54-111, 54-112, 54-113, 54-114, 54-115, 54-116, 54-117,

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54-118, 54-119, 54-120, 54-121, 54-122, 54-123, 54-124, 54-125, 54-126, 54-127, 54-128, 94-35-123, 94-35-148, 94-35-199, R.C.M. 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Section 15. This act shall become effective immediately upon its passage and approval. Effective immediately.

Approved: March 11, 1969.

CHAPTER NO. 315

An Act Amending Section 75-4246, R.C.M. 1947, to Provide That the State Board for Vocational Education Shall Apportion State and Federal Funds for Vocational Education in Accordance With the Directives of the State Legislature and Applicable Acts of Congress.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-4246, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-4246. **Apportionment of funds for vocational education.** The state board *for vocational* education shall apportion all moneys appropriated *by the legislature* for vocational education *in accordance with the intent of the legislature as reflected in the terms of the appropriation, and the said state board shall apportion all money received by the state of Montana for vocational education from the federal government under the acts of Congress mentioned in section 75-4241 in accordance with the requirements of said acts.*" Apportionment of funds for vocational education.

Approved: March 11, 1969.

CHAPTER NO. 316

An Act Amending Section 75-1303, R.C.M. 1947, Changing Certain Titles of Members of the Staff of the Superintendent of Public Instruction.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1303, R.C.M. 1947, is amended to read as follows: Amending clause.

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Official staff.

"75-1303. **Official staff.** The superintendent of public instruction shall have the power to appoint *one or more assistant superintendents one of whom may be designated as assistant superintendent for vocational education. In addition, he may appoint* one high school supervisor, one *elementary supervisor,* one music supervisor, and such other assistants as may be required to aid in carrying out the duties of his office. Such *assistant superindents,* supervisors and assistants shall perform such duties pertaining to the office as the superintendent may direct. Such music supervisor shall be qualified to perform the following duties: Supervise the teaching of music in the graded, rural and high schools of this state, and assist the teachers and faculty in said schools in establishing and carrying out a progressive music program for the benefit of all children in the public schools of the state, and perform all other duties required relating to music education in the public schools. The music supervisor must possess the following qualifications: A graduate in public school music from an accredited college or university, and said supervisor shall have had five (5) years teaching experience in public school music. The music supervisor shall perform only such duties as apply to music supervision.

For the purposes of organization of the staff and administration of the duties and services of the superintendent of public instruction, there is hereby created under the office of the superintendent of public instruction a department of public instruction, of which department the superintendent of public instruction shall be the executive and administrative head."

Approved: March 11, 1969.

CHAPTER NO. 317

An Act Amending Section 75-4241, R.C.M. 1947, to Delete Reference to Acts That Have Been Repealed by Congress and Inserting Reference to Acts Currently in Force.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4241, R.C.M. 1947, is amended to read as follows:

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"75-4241. **Acceptance of acts of Congress for promotion of vocational education.** The state of Montana hereby reaffirms the acceptance of and assents to the terms and provisions of the act of Congress entitled *'The Vocational Education Act of 1963' and the Vocational Education Amendments of 1968,'* and further hereby accepts and assents to the terms and provisions of all acts of the Congress amendatory of the act foregoing, and to the terms and provisions of *all other acts of Congress which provide funds for the benefit of vocational education in Montana.''*

Acceptance of federal aid for vocational education.

Approved: March 11, 1969.

CHAPTER NO. 318

An Act Repealing Section 75-4243, R.C.M. 1947, Concerning an Advisory Committee for Vocational Education — Compensation — Qualification of Members — Meetings, Powers, Duties and Expenses Is Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-4243, R.C.M. 1947, is hereby repealed.

Repealing clause.

Approved: March 11, 1969.

CHAPTER NO. 319

An Act to Expand the Duties of the State Co-ordinator of Indian Affairs; Providing for the Inclusion in Rehabilitation Programs of Indian Citizens Who Reside Off Known Reservations; Changing the Salary of the State Co-ordinator of Indian Affairs; and Amending Sections 82-2701, 82-2702, and 82-2703, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 82-2701, R.C.M. 1947, is amended to read as follows:

Amending clause.

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Legislative policy.

"82-2701. **Legislative policy.** Whereas, a considerable portion of the citizens of the state of Montana are members of the Indian race, and,

Whereas, in the course of the past eighty years these Indian citizens of the state of Montana have been driven from their native valleys and plains and are at present living and residing upon reservations set apart for such purposes by the United States of America, and by virtue of said isolation and supervision by the federal government, great problems of economic and social significance have arisen and presently exist, and that no suitable progress has been made to solve such problems by reason of the fact that the Indians and those who are attempting to aid them in the solution of their problems have never been able to present a co-ordinate and united effort in solving such problems, and

Whereas, it is hereby declared that it is the legislative policy of this state that the best interests of the Indians will be served by the fostering of a program which is designed to establish and place our Indian citizens in a position whereby they will be able to take their rightful place in our society, and assume the rights, duties and privileges of full citizenship, it is therefore necessary that a state office of the co-ordinator of Indian affairs be established so that the problems of the Indians of Montana can be approached and reconciled from a state level in co-operation with the United States of America, *and*

Whereas, agencies of the federal government retain jurisdiction on Indian reservations in the state of Montana in the administration of economic, social, health, education and welfare programs for Indians, and

Whereas, such Indians as who reside off of said reservations do not generally qualify for participation in such federal programs, and are often prohibited from voting on tribal affairs and for tribal officers, and

Whereas, there are sizeable numbers of off-reservation Indans residing in our state of both enrolled and unofficial tribal descent (landless) whose needs for environmental assistance are borne by state and local agencies, and that these needs are derived from problems shared by all Indians, whether they reside on reservations or not,

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and in consideration of their desire for official voice and representation in seeking solutions to their problems, and

Whereas, programs of the state of Montana should not duplicate those supported by agencies of the federal government as regards jurisdiction of Indian people, and since state responsibility is effected with off-reservation Indians, and since such Indians require assistance to co-ordinate their affairs with various tribal groups and federal agencies where they have no official recognition,

Then therefore, let it be resolved that the co-ordinator of Indian affairs should assess the problems of all Indians to include those who reside off of known reservations, and who seek ways and means of communicating their opinions and needs to agencies of responsibility, and that the co-ordinator should actively assist such people in organizing such efforts and that he act as representative and spokesman for such organized bodies of Indian people whether reservation or off-reservation classification, whenever such assistance is required.''

Amending clause.

Section 2. Section 82-2702, R.C.M. 1947, is amended to read as follows:

Office of state co-ordinator of Indian affairs—appointment—term—salary—office.

"82-2702. **Office of state co-ordinator of Indian affairs created—appointment of co-ordinator—term—salary—office.** The office of the state co-ordinator of Indian affairs is hereby created. The co-ordinator shall be appointed by the governor from a list of five (5) qualified persons agreed upon by the tribal councils of the respective Indian tribes of the state of Montana. He shall hold such office for a term of four (4) years and shall be paid a salary in such amount as may be specified by the legislative assembly in the appropriation to the co-ordinator of Indian affairs. If the legislative assembly does not specify the maximum salary for the co-ordinator, any increase in the salary of the co-ordinator must be approved by the board of examiners. He shall maintain his office at the state capitol in Helena, Montana.''

Amending clause.

Section 3. Section 82-2703, R.C.M. 1947, is amended to read as follows:

Duties of co-ordinator.

"82-2703. **Duties of co-ordinator.** It shall be the duty of the state co-ordinator of Indian affairs to do all necessary and proper things to carry out the legislative policy

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set forth in section 82-2701. He shall solicit rehabilitation loans, *educational funds, economic, health, and housing funds* from various sources for the purpose of enabling deserving Indians to become self-sufficient. Interest rates on such loans shall not exceed four per cent (4%) and such loans shall be disbursed through *various federal programs established for these purposes.*

He shall also do everything possible to bring about adequate housing *and sanitation for Indians, whether they reside on reservations or not, and will co-ordinate such activities whenever necessary* with the department of Indian affairs of the United States, the United States government and the state of Montana.

He shall acquaint himself with the problems confronting the Indians of Montana and he shall advise the legislative and executive branches of the state of Montana of such problems and shall make recommendations for the alleviation thereof. He shall also serve the Montana delegation in the federal Congress as an adviser and intermediary in the field of Indian affairs, *and shall act as spokesman for representative Indian organizations and groups, public and private, whenever such support is solicited."*

Approved: March 11, 1969.

CHAPTER NO. 320

An Act Providing for the Adoption of Orderly Procedures for Establishing Desirable Employment Practices for Registered Professional and Licensed Practical Nurses Employed in Health Care Facilities; Establishing Procedures for Developing Employment Standards; Providing Rule Making Authority to the State Board of Health.

Be it enacted by the Legislative Assembly of the State of Montana:

Employment practices for registered and licensed practical nurses.

Section 1. The purpose of this act is to encourage effective measures to assure uninterrupted continuation of sufficient competent nursing care of the ill and infirm in the state of Montana, and further to encourage the practice of mutually and peacefully agreeing upon the establishment and maintenance of desirable employment

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practices between nurse employees, professional and practical, and their health care facility employers, either public or private.

Section 2. **Definitions.** As used in this act, unless the context clearly requires otherwise:

(1) "Appropriate unit" means a homogenous group of employees (as herein defined) of a health care facility having similar duties and qualifications, determined pursuant to section 4 of this act. "Appropriate unit."

(2) "Employee" means a registered professional or licensed practical nurse performing services for compensation for a health care facility, but does not include a member of a religious order assigned to a health care facility by the order as a part of her obligation to the order. "Employee."

(3) "Health care facility" means a hospital or nursing home, or other agency or establishment, employing employees as defined in this act, whether operated publicly or privately, having as one of its principal purposes the preservation of health or the care of sick or infirm individuals or both. "Health care facility."

(4) "Board" or "board of health" means the state board of health. "Board."

(5) "Strike" shall mean any work stoppage caused by the employees of a health care facility as defined in section 2 of this act, that interferes with the operation of the health care facility or affects the care of patients in the health care facility. "Strike."

Section 3. It is an improper employment practice for a health care facility to do one or more of the following: Improper employment practices.

(1) Interfere with or restrain or coerce employees in any manner in the exercise of their right of self organization;

(2) Initiate, create, dominate, contribute to or interfere with the formation or administration of any employee organization that has collective bargaining as one of its principal functions;

(3) Discriminate in regard to hire terms or conditions

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of employment when a purpose of such is to discourage membership in an employee organization that has collective bargaining as one of its principal functions;

(4) Refuse to meet and bargain in good faith with the duly designated representatives of an appropriate bargaining unit of its employees. For the purpose of this subsection, it is a requirement of bargaining in good faith that the parties be willing to reduce in writing, and have their representative sign, any agreement arrived at through negotiations and discussion;

(5) Unilaterally exclude from work or prevent from working, or discharge any one or more employees, when the purpose of such action is in whole or in part, to interfere with or coerce or intimidate an employee in the exercise of rights assured in this law.

Appropriate unit.

Section 4. (1) The composition of an appropriate unit in a health care facility, for purposes of this law, may be determined by mutual consent between such facility and the employees thereof.

(2) In the event no such mutual consent is available, then either the facility, or representatives of employees may apply to the state board of health and said board, through a duly designated agent, shall make a determination of the composition of such an appropriate unit.

(3) In determining such appropriate unit professional employees may not be included in the same unit with nonprofessional employees unless a majority of professional employees in a proposed unit desire such inclusion. Weight shall be accorded similarity of duties, licensure, and conditions of employment, among other relevant factors, in determining an appropriate unit.

Bargaining organization.

Section 5. An employee organization is considered to be the duly designated representative of all the employees in an appropriate unit for the purpose of section 3 of this act if it can show evidence that bargaining rights have been assigned to it by a majority of the employees in that unit.

Determination of right to bargain.

Section 6. (1) If the right of an employee organization to represent the employees in an appropriate unit is questioned by the authority in charge of the facility employing the employees, the employee organization may

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petition the board of health for a determination. The board of health, or his representative, shall investigate and determine the composition of an appropriate unit, if such determination has not previously been made under section 4 of this act, and shall determine the representative, if any, designated to represent the employees in the appropriate unit.

(2) An employee organization found by the state board of health to be authorized by at least thirty percent (30%) of the employees in an appropriate unit may apply for an election by secret ballot to determine its right to represent the employees in that unit. If more than one employee organization claims to represent employees in that unit, the state board of health may conduct an election by secret ballot to determine which is authorized to represent the unit. If any employee organization receives a majority of the valid votes cast at the election, it is considered to be authorized to represent all the employees in that unit for the purpose of section 3 of this act.

(3) A determination under this section remains in effect for at least one (1) year and until either the health care facility or an employee organization shall apply for a redetermination.

Powers of board.

Section 7. The board of health may: (1) Set the time and place for hearings for determination of the composition of appropriate units when requested to make such determination under subsection 2, section 4, or subsection 1, section 6 of this act.

(2) Determine, on its own motion, by holding hearing or conducting such investigations as it thinks necessary, general classifications for health care facilities and appropriate units. When such determination has been made hereunder and when an application has been made by a health care facility or an employee organization for a specific determination as to it, the board may make such determination on the basis of such general classification. The health care facility or employee organization may, within thirty (30) days after notice to it of such determination, file a request for a hearing upon written petition which shall set forth the facts which it believes remove it

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from such general classification and hearing shall be held on such petition.

(3) Adopt and promulgate rules and regulations as to times and places for hearing and notice thereof so as to provide adequate notice and opportunity to be heard to all interested parties; as to elections; and so as to carry into effect the provisions of this act.

Proceedings to restrain improper practices.

Section 8. The board of health, a health care facility or an employee organization qualified to apply for an election under section 6 of this act may, in the name of its members, or in its name, institute proceedings to restrain the commission of any improper practice listed in section 3 of this act or appeal from any determination by the board. The proceeding may be instituted in the district court for any county in which the health care facility does business. The court in such an action may grant mandatory or prohibitory relief, or, on appeal, adjudicate whether the board has acted in abuse of discretion or upon arbitrary or discriminatory rules or regulations, in which event the court may reverse or modify such determinaiton.

When unlawful to strike.

Section 9. It shall be unlawful for any employee of a health care facility as defined in section 2 of this act to participate in a strike if there is another strike in effect at another health care facility within a radius of 150 miles. Employees of a health care facility as defined in section 2 of this act or their duly elected representative must give the health care facility thirty (30) days written notice of any strike by them and must specify in the notice the day the strike is to begin.

Severability clause.

Section 10. This act shall be severable, and should any part or provision hereof be held to be unconstitutional such declaration will not invalidate the remaining provisions hereof.

Approved: March 11, 1969.

CHAPTER NO. 321

An Act to Provide for the Support of the Government of Montana for the Years 1969 and 1970, Providing a Severability Clause and an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Taxation of property in Montana.

Section 1. The following tax levies for state purposes are hereby made upon all property in the state of Montana, subject to taxation, for the year 1969, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to wit:

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, Revised Codes of Montana, 1947.

(b) For the university of Montana building bond interest and redemption fund created under Referendum Measure No. 52, one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 52.

(c) For the Montana state hospital for the insane bond interest and redemption fund created under Referendum Measure No. 57, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 57.

(d) For the Montana state training school bond interest and redemption fund created under Referendum Measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 58.

(e) For the university millage fund, to provide funds for the support of the Montana university system, as provided in Referendum Measure No. 65 and passed by vote of the people at the general election held November 5, 1968, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system.

Section 2. The following tax levies for state purposes are hereby made upon all property in the state of Montana, subject to taxation, for the year 1970, as ascertained by taking the percentage of the true and full value provided by law for the purposes of taxation, to wit:

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(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary under the provisions of section 84-713, Revised Codes of Montana, 1947.

(b) For the university of Montana building bond interest and redemption fund created under Referendum Measure No. 52, one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 52.

(c) For the Montana state hospital for the insane bond interest and redemption fund created under Referendum Measure No. 57, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of Referendum Measure No. 57.

(d) For the Montana state training school bond interest and redemption fund created under Referendum Measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under provisions of Referendum Measure No. 58.

(e) For the university millage fund, to provide funds for the support of the Montana university system, as provided in Referendum Measure No. 65 and passed by vote of the people at the general election held November 5, 1968, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system.

Saving clause.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved: March 11, 1969.

CHAPTER NO. 322

An Act to Fix Salaries for the District Court Judges; Amending Section 93-303, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-303, R.C.M. 1947, is amended to read as follows: Amending clause.

"93-303. **Salaries of district judges.** The annual salary of each district judge shall be *nineteen thousand dollars ($19,000).*" Salaries of district judges.

Approved: March 12, 1969.

CHAPTER NO. 323

An Act to Amend Section 25-501, R.C.M. 1947, as Amended, to Increase Salaries of Certain Elected State Officials.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 25-501, R.C.M. 1947, is amended to read as follows: Amending clause.

"25-501. **Salaries of *certain* elected state officials.** The annual salaries paid to *certain* elected officials of the state of Montana shall be as follows: Salaries of certain elected officials.

Governor	$23,250
Chief justice of the supreme court	*$22,500*
Justices of the supreme court, each	*$21,000*
Attorney general	$15,500
State auditor	$10,500
Superintendent of public instruction	$13,750
Railroad commissioner	*$11,550*
State treasurer	$10,500
Secretary of state	$10,500
Clerk of the supreme court	*$11,500"*

Approved: March 12, 1969.

CHAPTER NO. 324

An Act Amending Section 84-1505, R.C.M. 1947, Increasing the Interest Rate From Six Percent Per Annum to Nine Percent Per Annum for Failure to Remit Corporation License Taxes When Due, and Providing an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1505, R.C.M. 1947, is amended to read as follows:

Assessment and collection of tax.

"84-1505. **Assessment and collection of tax.** (1) Assessment and payment of tax, penalty and interest. All taxpayers shall compute the amount of tax payable under this act and shall remit such amount to the state board of equalization on or before the fifteenth day of the fifth month following the close of the taxable period. If the tax is not paid on or before the due date, there shall be assessed a penalty of ten percent (10%) of the amount of the tax, unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted, or otherwise, interest shall be added thereto at the rate of *nine* percent *(9%)* per annum from the due date until paid.

(2) Levy upon and sale of property for payment of corporation licenses taxes. If any tax imposed by this act or any portion of such tax is not paid within sixty (60) days after the same becomes due, the board shall issue a warrant under its official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the corporation owning the same, found within his county, for the payment of the amount thereof, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the board and pay to it the money collected by virtue thereof by a time to be therein specified, not more than sixty (60) days from the date of the warrant. The sheriff shall within five (5) days after the receipt of the warrant, file with the clerk of the district court of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns, the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real property or chattels real of the corporation against whom it is levied in the same manner as a judgment docketed in the office of such

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clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In the discretion of the board a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect income taxes, and in the execution thereof, such agent shall have the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the board shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax.

(3) Action by attorney general. Action may be brought at any time by the attorney general of the state at the instance of the board, in the name of the state to recover the amount of any taxes, penalties and interest due under this act."

Section 2. This act is effective as to taxable years ending on and after December 31, 1968. **Effective date.**

Approved: March 13, 1969.

CHAPTER NO. 325

An Act Amending Section 75-4425, R.C.M. 1947, to Change the Method of Computing the Average Number Belonging for Participation in the Foundation Program and Equalization Fund by Community Colleges; and Providing That Community Colleges Shall Be Considered School Districts for Certain Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-4425, R.C.M. 1947, is amended to read as follows: **Amending clause.**

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Participation in foundation program and equalization fund—budgeting—special tax levy.

"75-4425. **Participation in foundation program and equalization fund—budgeting—special tax levy.** A community college under this act shall be considered a free public school for budgeting and financial purposes under chapter 36, Title 75 of the Revised Codes of Montana, 1947, as amended, and as hereafter amended. The term 'average number belonging' for community colleges shall *be determined by dividing the total number of eligible credits taken by eligible students by thirty (30). Eligible students for average number belonging calculation purposes shall be: (1) students who are under twenty-one (21) years of age for one-half or more of the quarter; (2) students who are not concurrently enrolled in an elementary or high school; (3) students enrolled in the summer quarter of the community college. Eligible credits for average number belonging calculation purposes shall be: (1) credits taken by an eligible student; (2) credits taken in courses of instruction approved by the State Board of Education. Eligible credits for average number belonging calculation purposes shall not include: (1) credits taken taken in adult education courses; (2) credits dropped by the eligible student before the mid-point in the quarter; (3) credits taken in resident extension courses of the Montana University System.*

The moneys coming into the state public school equalization fund shall be distributed and apportioned to provide an annual minimum operating revenue for the community college in accordance with the schedules provided for high schools under chapter 36, Title 75 of the Revised Codes of Montana, 1947, as amended and as hereafter amended.

The community college district shall be subject to the budgeting laws of a joint high school district or a joint common school district maintaining a high school, in so far as they are applicable, provided, however, the budget of a community college district shall be complete and separate.

Whenever the board of trustees of a community college district shall deem it necessary to raise money for college purposes in addition to its revenues from county and state apportionments, they may proceed in so far as applicable under section 75-4609 and 75-4610 of the Revised Codes of Montana, 1947, as amended. *A commun-*

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ity college under this act shall be considered a school district for the purposes of section 75-1633, R.C.M. 1947.''

Approved: March 13, 1969.

CHAPTER NO. 326

An Act Providing for Registration, Exemptions, Transfer of Ownership, and Operation of Snowmobiles, Establishing Certificates of Ownership, Fees, and Charges, and Providing Penalties for any Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definition of terms.** As used in this act, the following terms shall have the meanings indicated herein, unless the context otherwise clearly requires that another meaning be intended:

a. "Person" includes an individual, partnership, association, corporation, and any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization. "Person."

b. "Snowmobile" includes any self-propelled, track-driven, vehicle designed primarily for travel on snow or ice or natural terrain, which may be steered by wheels, skis, or runners, and which is not otherwise registered or licensed under the laws of the state of Montana. "Snowmobile."

c. "Owner" shall include every person as defined herein, other than a lienholder or other person having a security interest only, holding record title to a snowmobile, and entitled to the use or possession thereof. "Owner."

d. "Operator" shall include every person who operates or is in actual physical control of the operation of a snowmobile. "Operator."

e. "Roadway" shall include only those portions of any highway, road, or street improved, designed, or ordinarily used for travel or parking of motor vehicles. "Roadway."

Section 2. **Snowmobile registration.** (1) No snowmobile shall be operated upon any public lands, trails, easements, lakes, rivers, or streams, unless it has first been Snowmobile registration.

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registered in accordance with the provisions of this act. Application for registration shall be made to the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose, and to provide for substantially the following information: Name of owner, residence by town and county, business or home mail address, name and address of lienholder, amount due under contract or lien, name and address of manufacturer, model number or name, serial number, and name and address of dealer or other person from whom acquired. The application shall be signed by at least one owner, or by a properly authorized officer or representative of the owner.

(2) If a snowmobile has previously been registered, under the provisions of this act, the application for registration must be accompanied by the immediately previous registration receipt, or by an affidavit upon a prescribed form, stating under oath that the vehicle had not been operated during the immediately previous year.

(3) Upon receipt of the application, such supporting papers as may be required, and the appropriate fee as hereinafter provided, such snowmobile shall be registered and a registration number assigned which shall be affixed to the snowmobile in such manner as may be prescribed.

(4) The registration requirements of this act shall apply to snowmobiles owned and operated by manufacturers, distributors, or dealers, except that the description of the snowmobile shall be omitted from the form furnished for this purpose, and such registration number shall be permitted to be transferred from one snowmobile to another. In lieu of the descriptive material on the form, the word "manufacturer", "distributor", or "dealer" will appear on the form. The manufacturer, distributor, or dealer may have the number assigned printed on or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to a snowmobile, to be tested or demonstrated, as long as the number is exhibited so as to in all other respects meet the requirements of the act relating to registration and display of number.

(5) The total fee which may be charged each applicant for registration of snowmobiles shall be established

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by the registrar of motor vehicles, provided that the annual registration fee for each snowmobile shall not be less than six dollars ($6). Such fee shall also apply to manufacturers, distributors, or dealers who are registered in conformity with the requirements of this act as provided in this section.

Certificates of ownership.

Section 3. **Certificates of ownership.** Upon completion of the application of registration, in quintuplicate, on forms furnished by the registrar of motor vehicles, the county treasurer shall issue to the applicant two copies of the application marked "owner's certificate of registration", one of which shall be marked "file copy", and forward one copy and the application to the registrar of motor vehicles, who shall cause to be entered the information contained in the application upon the corresponding records of his office, and shall furnish the applicant a certificate of ownership, which shall contain the information found on the registration, and the owner shall, at all times, retain possession of the certificate of ownership, except when the same is being transmitted to and from the registrar of motor vehicles for endorsement or cancellation.

Registration periods.

Section 4. **Registration periods.** All registrations of snowmobiles shall expire annually on the thirtieth day of June.

Exemption from registration.

Section 5. **Exemption from registration.** No registration hereunder shall be required for snowmobiles owned or used by the United States or another state or any agency or political subdivision thereof, or any snowmobile registered in a country other than the United States and to be temporarily used within this state for a period of not more than thirty days, or any snowmobile registered in another state of the United States, but to be temporarily used within this state for not more than thirty days. Snowmobiles owned by the state of Montana, or any agency or political subdivision thereof, shall be exempt only from the payment of fees, but shall otherwise comply with all requirements for registration. No registration hereunder shall be required for snowmobiles used and operated entirely and exclusively upon the owner's own property.

Snowmobile operations.

Section 6. **Snowmobile operations.** (1) No person shall operate a snowmobile upon a controlled access highway

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or facility. Snowmobile operation may be permitted on the roadway or shoulder of any other public road or highway, state highway, county road, or city street, located within the boundaries of any municipality, as provided in this act.

(2) A snowmobile may make a direct crossing of a street or highway, where such crossing is necessary to get to another authorized area of operation. Such crossing shall be made at an angle of approximately ninety degrees (90°) to the direction of the highway, at a place where no obstruction prevents a quick and safe crossing. The snowmobile shall make a complete stop before entering upon any part of the highway or road, and the operator shall yield the right of way to all oncoming traffic.

(3) No snowmobile shall be operated upon a public street or highway when permitted to do so by this act, unless equipped with at least one head lamp and one tail lamp, which shall be lighted at all times during such operation, and unless equipped with a suitable braking device which may be operated by either hand or foot.

(4) The prohibition against operating snowmobiles upon public streets or highways shall apply to controlled access highways and facilities but not apply to any other street or highway drifted or covered by snow to such an extent that travel thereon by other motor vehicles is impractical or impossible, or when the operator is in possession of a written permit for such travel, issued by an appropriate authority, or upon those streets of a municipality where such operation has been specifically so authorized by a duly enacted municipal ordinance.

Unlawful operation.

Section 7. **Unlawful operation.** It shall be unlawful for any person to drive or operate any snowmobile in any one or more of the following manners:

a. At a rate of speed greater than reasonable or proper under all existing circumstances;

b. While under the influence of intoxicating liquor or narcotics or habit forming drugs;

c. In a careless or reckless manner so as to endanger

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the person or property of another, or to cause injury or damage to either;

d. Without a lighted head and tail light between the hours of dusk and dawn, when upon or crossing any public road, or when otherwise required for safety of others;

e. Operating a snowmobile, or permitting such operation, by any person who by reason of physical or mental disability is incapable of operating the snowmobile as required for safety under the prevailing circumstances;

f. For the purpose of driving, rallying or harassing any of the game animals, game birds, or fur-bearing animals of the state, or any livestock, provided, however, that an owner of livestock is not prohibited from managing or driving his own livestock by the use of snowmobiles and may direct other persons to so manage or drive his livestock.

g. Without a muffler in good working order and in constant operation which prevents excessive or unusual noise and annoying smoke.

Administration.

Section 8. **Administration.** The administration of this act, for registration of snowmobiles, issuing of certificates of title, and collection of fees and charges, shall be the responsibility of the registrar of motor vehicles. All records of the registrar made or kept pursuant to this act shall be public records, and the registrar may employ or retain such persons as may be necessary to carry out the provisions of this act, fix their salaries and compensation for expenses, and make and authorize such other expenditures as may be necessary to properly carry out his duties and responsibilities. The registrar shall establish and publish a schedule of fees and charges to be made by him under the authority of this act. Such fees and charges shall be fair and reasonable, consistent with the provisions and purposes of this act, and based upon such classifications as may be deemed necessary and appropriate. The registrar shall prepare and furnish all forms necessary for registration of snowmobiles, and shall prepare and furnish the necessary forms for issuing certificates of title.

Enforcement.

Section 9. **Enforcement.** The fish and game commission of the state of Montana shall enact and publish

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reasonable rules and regulations necessary to the enforcement of this act, but not inconsistent with any of its provisions. All records of the commission made or kept pursuant to this act shall be public records. The fish and game commission, enforcement personnel, the sheriffs and their deputies of the various counties of the state, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this act.

Disposal of proceeds from registration fees.

Section 10. **Disposal of proceeds from registration fees.** The fees derived from registration of snowmobiles shall be deposited as follows:

(1) One-third shall be deposited in the motor vehicle recording account in the earmarked revenue fund;

(2) One-third shall be deposited in the county motor vehicle fund of the county in which the snowmobile is registered;

(3) One-third shall be deposited in the earmarked revenue fund to the credit of the fish and game commission to be used in improving and maintaining landlocked Montana state parks.

Penalties.

Section 11. **Penalties.** Violations of any section of this act shall be misdemeanors, and punishable by fine or imprisonment or both, as follows:

a. For careless or reckless operation of a snowmobile, or for the operation of a snowmobile while under influence of intoxicants or narcotics, a fine of not more than one hundred dollars ($100) or imprisonment for not more than thirty (30) days or both.

b. For violation of any other provision of this act, or of any rule or regulation established hereunder, a fine not to exceed one hundred fifty dollars ($150).

Approved: March 13, 1969.

CHAPTER NO. 327

An Act to Amend Section 71-242, R.C.M. 1947, as Amended, to Enable the State of Montana to Conform With

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the United States Social Security Act Which Would Allow the State Department of Public Welfare to Issue Rules and Regulations to the County Welfare Departments Requiring the Use of the Declaration Method for the Purpose of Determining Eligibility Regardless of Any Other Investigative Provisions Under the Welfare Act and for All Types of Assistance.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 71-242, R.C.M. 1947, as amended is amended to read as follows: Amending clause.

"71-242. **Award of public assistance — ineligibility upon transfer of property, when.** Upon completion of the investigation, the county board shall determine whether the applicant is eligible for public assistance under the provisions of this act, the type and amount of public assistance he shall receive, and the date upon which such public assistance shall begin. Public assistance shall not be granted under the Montana State Welfare Act to any person who has deprived himself directly or indirectly of any property for the purpose of qualifying for assistance under this act. Any person who shall have transferred or shall transfer real property or interests in real property within five (5) years of the date of application for public assistance without receiving adequate consideration therefor in money or money's worth shall be presumed to have made such transfer for the purpose of qualifying for assistance under this act. Award of public assistance—ineligibility upon transfer of property—when.

The state department of public welfare, if necessary to conform with the United States Social Security Act, may issue rules and regulations to the county welfare departments requiring the use of the declaration method, in such form as the state department may prescribe for the purpose of determining eligibility, regardless of any other investigative provisions under this act, and for all types of assistance. These regulations may include any additional investigations the state department may require."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: March 13, 1969.

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CHAPTER NO. 328

An Act Amending Section 84-2209, R.C.M. 1947, to Provide for Waiver of Penalty Assessed for Nonfiling of Crude Oil Statement.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-2209, R.C.M. 1947, is amended to read as follows:

Procedure to compute and collect tax in absence of statement.

"84-2209. **Procedure to compute and collect tax in absence of statement.** If any such person shall fail, neglect or refuse to file any statement required by section 84-2207, within the time therein required, the state board of equalization shall, immediately after such time has expired, proceed to inform itself, as best it may, regarding the number of barrels of petroleum and other mineral or crude oil extracted and produced by such person in this state during such quarter, and during each month thereof, and the average value thereof during each such month, and shall determine and fix the amount of the license taxes due to the state from such person for such quarter and shall make out a statement, in duplicate, showing the same, and shall add to the amount of such license taxes a penalty of twenty-five per cent thereof, and deliver one of such statements to the state treasurer, who shall proceed to collect the amount of such license taxes, with the penalty added thereto and interest on the whole thereof at the rate of twelve per cent, per annum from the date of the making of such statement by the state board of equalization until paid. Upon request of the state treasurer, it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction, an action at law to collect the same. *The twenty-five per cent penalty herein provided may be waived by the state board of equalization if reasonable cause for the failure and neglect to file the statement required by section 84-2207 is provided to the said board.*"

Approved: March 13, 1967.

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CHAPTER NO. 329

An Act to Establish a Policy for the Making of Premium Rates for Workmen's Compensation Insurance Issued Under Plan Number 2 of the Workmen's Compensation Act, Sections 92-1001 Through 92-1012, R.C.M. 1947, and Plan Number 3 of the Workmen's Compensation Act, Sections 92-1101 Through 92-1123, R.C.M. 1947, and to Insurance or Guaranty by Surety Insurers of the Obligations of Employers Under the Workmen's Compensation Act; Providing for Rate Making Factors, Rate Standards and Uniformity of Rates, and Providing for Rate Filing, Exemptions From Filing and Effective Date of Filing; Providing for Disapproval of Rate Filing by the State Auditor, Ex Officio Commissioner of Insurance; Providing for Disapproval of Filing After Consideration by the Commissioner of Insurance; Providing for the Scope of Disapproval Power by the Commissioner of Insurance; Providing for Adherence to Filing; Relating to Excess Rates, Deviations From Such Rates and Defining the Power of the Commissioner of Insurance Relative Thereto; Requiring Rating Organization Membership and Application of the Laws of Montana as to Certain Powers of the Commissioner of Insurance and to Certain Public Employment; Repealing All Acts and Parts of Acts in Conflict Herewith; Providing for Filings by Rating Bureaus With the Commissioner of Insurance, Including Workmen's Compensation Insurance; Requiring Membership in a Rating Organization of All Insurers Writing Workmen's Compensation Insurance and Requiring Membership of the Montana State Industrial Accident Board, Without Election, on Any Committee of a Rating Organization of Which It Is a Member; Providing for Application to the Commissioner of Insurance for Percentage Increase or Decrease of Premiums and Providing Procedure Therefor; Amending Section 92-1101, R.C.M. 1947, Relating to Payment of Premiums by Employers Under Plan Number 3 and Referring to Industrial Accident Board's Membership in a Rating Organization; Amending Section 92-1104, R.C.M. 1947, Relating to Industrial Accident Board's Power to Determine Premiums and Referring to Its Membership in a Rating Organization; and Amending Section 92-1105, R.C.M. 1947, Relating to

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the Intent and Purpose of Plan Number 3, and Referring to the Industrial Accident Board's Membership in a Rating Organization.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose.

Section 1. (1) It is declared that the public welfare is served by the making of premium rates for workmen's compensation insurance coverage in concert, and that the review by the state of the rates so made is necessary and desirable in the public interest.

(2) It is the purpose of this act (a) to authorize such rate-making in concert, and the operating of rating organizations thereto;

(b) to establish the general bases and standards for the making of such rates;

(c) to provide for review by the state of such rate-making and the results thereof.

Application.

Section 2. This act applies to the making of premium rates for workmen's compensation insurance issued under compensation plan number 2 of the Workmen's Compensation Act, sections 92-1001 to and including 92-1012, and for workmen's compensation insurance issued under compensation plan number 3 of the Workmen's Compensation Act, sections 92-1101 to and including 92-1123.

Exemption.

Section 3. This act shall not apply as to any reciprocal insurer transacting workmen's compensation insurance only and insuring solely the hazards or perils of its subscribers exclusively associated with a single industry.

Rates—determination.

Section 4. All rates shall be made in accordance with the following provisions: (1) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state.

(2) The systems of expense provisions included in

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the rates for use by an insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(3) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates on individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

Section 5. Rates shall not be excessive, inadequate or unfairly discriminatory.

Uniformity of rates.

Section 6. Except to the extent necessary to meet the provisions of section 4, uniformity among insurers in any matter within the scope of section 4 and section 5 is neither required nor prohibited.

Filing of rates.

Section 7. (1) There shall be filed with the insurance commissioner on behalf of every insurer writing workmen's compensation coverages in this state, every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the filing is supported, and the insurance commissioner does not have sufficient information to determine whether such filing meets the requirements of this act, he shall require the insurer's rating organization or the insurer to furnish the information upon which it supports the filing and in such event, the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include:

(a) the experience or judgment of the insurer;

(b) the insurer's or rating organization's interpretation of any statistical data relied upon;

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(c) the experience of other insurers or rating organizations; or

(d) any other relevant factors.

(2) A filing and any supporting information shall be open to public inspection after the filing becomes effective.

Rules and regulations.

Section 8. Under such rules and regulations as he shall adopt, the insurance commissioner may, by written order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes or risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The insurance commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in section 5.

Review of filings.

Section 9. (1) The insurance commissioner shall review filings as soon as reasonably possible after they have been made, in order to determine whether they meet the requiremnts of this act.

(2) Subject to the exception specified in subsection (3) below, each filing shall be on file for a waiting period of fifteen (15) days before it becomes effective, which period may be extended by the insurance commissioner for an additional period, not to exceed fifteen (15) days if he gives written notice within such waiting period to the rating organization which made the filing, that he needs such additional time for the consideration of the filing. Upon the written application by the insurer or rating organization, the insurance commissioner may authorize a filing which he has reviewed to become effective before expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this act unless disapproved by the insurance commissioner within the waiting period or any extension thereof.

(3) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements

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of this act until such time as the insurance commissioner reviews the filing and so long thereafter as the filing remains in effect.

Disapproval of filing.

Section 10. If, within the waiting period or any extension thereof as provided in section 9, the insurance commissioner finds that a filing does not meet the requirements of this act, he shall send to the rating organization which made the filing, written notice of disapproval of the filing, specifying therein in what respect he finds the filing fails to meet the requirements of this act and stating that the filing shall not become effective.

Notice of noncompliance.

Section 11. If, at any time subsequent to the applicable review period provided for in section 9, the insurance commissioner finds that a filing does not meet the requirements of this act, he shall, after a hearing held upon not less than ten (10) days' written notice specifying the matters to be considered at such hearing, to every rating organization which made the filing, issue an order specifying in what respect he finds that the filing fails to meet the requirements of this act, and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective. Copies of the order shall be sent to every such rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Approval—when.

Section 12. No manual of classifications, rules, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 7, shall be disapproved if the rates thereby produced meet the requirements of this act.

Premium rates.

Section 13. No insurer shall issue, renew or continue in force in this state any workmen's compensation insurance at premium rates which are less than the rates applicable under the filings in effect for the insurer, or in effect in accordance with section 8, except as is otherwise provided in this act as to the industrial accident board.

Excess rates.

Section 14. Upon the written application of the insured, stating his reasons therefor, filed with and approved by the insurance commissioner, a rate in excess of that

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provided by a filing otherwise applicable may be used on any specific risk.

Application of filing rates.

Section 15. (1) Every member of a rating organization shall adhere to the filings made on its behalf by such organization, except that any plan number 2 insurer may make written application to the insurance commissioner for permission to file a uniform percentage decrease or increase to be applied to the premium produced by the rating system so filed for a kind of insurance or for a class of insurance which is found by the insurance commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance:

(a) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes; or

(b) for which separate expense provisions are included in the filings of the rating organization. Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization.

(2) The insurance commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten (10) days' written notice thereof. In the event the insurance commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In permitting or denying such modification with respect to workmen's compensation insurance, the insurance commissioner shall give consideration to the operating methods and expense provisions of the insurer as compared with the expense provisions included in the rating system filed by such rating organization.

(3) The insurance commissioner shall issue an order permitting the modification for such insurer to be filed, if he finds it to be justified, and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that

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the resulting premiums would be excessive, inadequate or unfairly discriminatory.

(4) Each deviation permitted to be filed shall be effective for a period of one (1) year from the date of such permission, unless terminated sooner with the approval of the insurance commissioner.

(5) Any deviation adopted by the industrial accident board for plan number 3 rates shall be final and without review or approval by the state insurance commissioner except that the said board shall file with the insurance commissioner's office a schedule of such deviations so adopted and a statement of the bases for such modification.

Members.

Section 16. Every insurer, including the Montana state industrial accident board, writing workmen's compensation insurance in this state, shall be a member of a workmen's compensation rating organization. No insurer may, at the same time, belong to more than one rating organization with respect to such insurance.

Minimum membership.

Section 17. Such a rating organization shall have as members not less than five (5) insurers authorized to write and writing workmen's compensation insurance in this state, and whose combined experience is determined by the insurance commissioner to be reasonably adequate for rate making purposes.

Committee members.

Section 18. In a rating organization of which the Montana industrial accident board is a member, it shall be entitled, without election, to membership on any committee thereof established in connection with the operation of the rating organization in this state. One member of each such committee shall be chosen by the stock insurers and one by the nonstock insurers. Such committee shall consist of three (3) members as herein provided for.

Repealing clause.

Section 19. All acts or parts of acts in conflict herewith are hereby repealed.

Amending clause.

Section 20. Section 92-1101, R.C.M. 1947, is amended to read as follows:

Plan No. 3—election.

"92-1101. **What necessary in electing plan No. 3—percentage of payroll to be paid under plan.**

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COMPENSATION PLAN NUMBER THREE

Every employer subject to the provisions of compensation plan No. 3 shall, in the manner herein specified pay to the industrial accident board a premium based on a percentage of his payroll as determined by the industrial accident board *which shall be a member of a rating organization* in accordance with the provisions of this act."

Amending clause.

Section 21. Section 92-1104, R.C.M. 1947, is amended to read as follows:

Classification by board.

"92-1104. **Classifications by board.** The industrial accident board is hereby given full power and authority to determine premium rates and classifications as in its judgment and experience, *and as a member of a rating organization as is otherwise provided for in this code,* may be necessary or expedient, provided that no change in the classification or rates prescribed shall be effective until thirty (30) days after the date of the order making such change."

Amending clause.

Section 22. Section 92-1105, R.C.M. 1947, is amended to read as follows:

Intent and purpose of Plan No. 3.

"92-1105. **Intent and purpose of plan No. 3.** It is the intent and purpose of compensation plan No. 3 that each industry, trade, occupation or employment coming under the provisions of said plan shall be liable to pay for injuries happening to employees coming under the provisions of the Workmen's Compensation Act.

All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the fund, and securities acquired by or through use of money shall be deposited in the industrial insurance account in the agency fund.

The industrial insurance program shall be neither more nor less than self-supporting. Employments affected by the provisions hereof shall be divided by the board *as a member of a rating organization* into classes, whose rates may be readjusted at such times as the board *as a member of such rating organization* may determine. Separate accounts shall be kept of the amounts collected and expended in each class for determining rates but for payment of compensation and dividends the industrial insurance ac-

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count shall be one and indivisible. The board *as a member of such rating organization* shall determine the hazards of the different classes of occupations or industries and fix the premiums therefor at the lowest rate consistent with maintenance of a solvent industrial insurance fund, and the creation of surplus and reserves and for such purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each risk, *and shall take advantage of the experience and information afforded to it as a member of such rating organization.*

The board in fixing rates shall provide for the expenses of administering the industrial insurance account allowed by law, the disbursements on account of injuries and deaths of employees in each class, an adequate catastrophe reserve, reserves adequate to meet anticipated and unexpected losses, and such other reserves and surplus as may be determined by the board *as a member of such rating organization.*"

Section 23. The provisions of this act shall be severable; and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect. **Severability clause.**

Approved: March 13, 1969.

CHAPTER NO. 330

An Act to Establish Within the Department of Agriculture of the State of Montana an Agricultural Marketing Coordinator and Empower the Coordinator to Analyze, Advise, and Make Necessary Recommendations in the Field of Agricultural Marketing.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the purpose of this act to create the position of agricultural marketing coordinator. It is the intent of the legislature in creating this position to have the agricultural marketing coordinator coordinate marketing all the way from the initial producer to the consumer. It is further the intent of this act to reduce mar- **Purpose.**

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keting cost by empowering the coordinator to assist both producer and industry to find ways to more efficiently market their products. The coordinator will also endeavor to develop new and improved systems of marketing which will result in the stabilization and improvement of returns for industry and the producer. He will work with farm leaders, farmer cooperatives, processors, wholesalers, retailers, representatives of the transportation industry, consumer groups and others as a means of correcting marketing inefficiencies or eliminating restrictions:

Section 2. As used in this act unless the context indicates otherwise:

"Marketing." (1) "Marketing" means the sum total of activities involved in getting agricultural products from the producer to the consumer and it includes transportation, processing, and distribution.

"Agricultural products." (2) "Agricultural products" means crops, livestock and livestock products.

"Commissioner." (3) "Commissioner" means commissioner of agriculture.

Coordinator. Section 3. (1) There shall be within the department of agriculture of the state of Montana an agricultural marketing coordinator. He shall be a graduate of an accredited college with a master's degree in marketing or related field; he must possess the ability to plan, organize and carry out an effective marketing program; he must possess the ability to work harmoniously with other staff members and professional members in other organizations and industry; and he must have a minimum of two (2) years' experience in marketing or related fields.

(2) The coordinator is primarily responsible for providing leadership in marketing. He must keep informed in the subject matter related to this assignment. His major responsibility is to identify major needs and establish priorities in marketing and assist in developing marketing programs that will be directed toward a solution of these needs.

Duty of coordinator. Section 4. It shall be the duty of the marketing coordinator:

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(1) To keep abreast of research results in the subject matter area of marketing;

(2) To coordinate work with local, state and national planning groups and other interested parties in helping them identify major problem areas and needs in marketing;

(3) To develop and carry out appropriate action programs that will result in significant improvements being made by those people concerned with problems of marketing;

(4) To coordinate efforts with representatives of other agencies or organizations or persons who are concerned with related programs;

(5) To investigate the costs of marketing;

(6) To gather and disseminate information concerning supply, demand, favorable marketing information, prevailing prices, and changes in marketing movements, practices and rates, including common and cold storage of food products;

(7) To promote, assist and encourage the organization and operation of cooperative and other associations and organizations for improving the relations and services among producers, distributors and consumers of food products;

(8) To investigate the practice and methods concerning the marketing of agricultural products;

(9) To act as mediator or arbitrator, when invited, in any controversy or issue that may arise between producers and distributors;

(10) To assist producers and distributors in the economical and efficient distribution of agricultural products at fair prices;

(11) Appear and be heard at any hearing involving agricultural marketing affecting Montana.

Coordinator under supervision of commissioner.

Section 5. The agricultural marketing coordinator shall be under the supervision of the commissioner of agriculture of the state of Montana.

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Marketing advisory body.

Section 6. There is an agricultural marketing advisory body. It shall consist of nine (9) members. The dean of the school of agriculture at Montana state university, and the commissioner of agriculture shall be ex officio members. Seven (7) members shall be appointed by the commissioner of agriculture from representatives from transportation, representatives from farm and commodity organizations, representatives from the field of processing, representatives from the field of retailers and representatives of research and educational institutions. No more than four (4) of those members appointed shall be from the same political party, and those appointed shall serve at the pleasure of the commissioner. This advisory body shall meet at the call of the commissioner, but at least once a year. This advisory body shall advise, assist and direct the marketing coordinator in implementing the provisions of this act. They shall receive reimbursement for necessary expenses incurred in carrying out the provisions of this act.

Recommendations by coordinator.

Section 7. (1) The agricultural marketing coordinator shall make written recommendations to the commissioner concerning the needs for the development of new and improved systems for marketing agricultural products. He shall also recommend changes or additions for improved marketing services.

(2) The commissioner shall submit an annual written report to the governor on or before October 1 of each year containing the findings, conclusions, and recommendations of the agricultural marketing coordinator. He may also submit a report to the next legislative assembly.

Agency cooperation.

Section 8. All agencies of the state of Montana who participate in marketing as defined in section 2, subsection (1) of this act shall cooperate and assist with the agricultural marketing coordinator.

Approved: March 13, 1969.

CHAPTER NO. 331

An Act Amending Section 16-1803, R.C.M. 1947, to Provide for an Increase From Two Thousand Dollars

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($2,000) to Four Thousand Dollars ($4,000) as the Amount Over Which Boards of County Commissioners Must Publish Notice Calling for Bids in Contracts for the Purchase of Vehicles, Machinery, Equipment, Materials, Supplies and Two Thousand Five Hundred Dollars ($2,500) for Building Construction.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1803, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-1803. *Procedure when* **request for bids** *is* **necessary in making contracts for purchases and for construction of buildings exceeding** *two thousand five hundred dollars ($2,500).* (1) No contract shall be entered into between a board of county commissioners for the purchase of any automobile, truck, or other vehicle, or road machinery, or for any other machinery, apparatus, appliances or equipment, or for any materials or supplies of any kind *for which must be paid a sum in excess of four thousand dollars ($4,000),* or for the construction of any building, for which must be paid a sum in excess of *two thousand five hundred dollars ($2,500)* without first publishing a notice calling for bids for furnishing the same, which notice must be published at least once a week, for three (3) consecutive weeks before the date fixed therein for receiving bids, in the official newspaper of the county, and every such contract shall be let to the lowest and best responsible bidder; provided that the provisions of this section shall not apply to contracts for public printing entered into in accordance with the provisions of chapter 12 of Title 16 and provided further, that the provisions of this section shall not apply to contracts for purchases, which in the opinion of the board, are made necessary by fires, flood, explosion, storm, earthquake, or other elements, epidemic, riot, insurrection, or for the immediate preservation of order, or of the public health, or for the restoration of a condition of usefulness which has been destroyed by accident, wear, tear, mischief, or for the relief of a stricken community overtaken by calamity. Procedure—bids exceeding $2,500.

(2) When the amount to be paid as the purchase price for any automobile, truck, or other vehicle, or road machinery of any kind, or for any other machinery, ap-

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paratus, appliance or equipment, or for any materials or supplies of any kind, shall exceed one thousand dollars ($1,000.00) the board of county commissioners may provide for the payment of such purchase price in installments extending over a period of not more than three (3) years; provided that when the purchase price is extended over a term of two (2) years or at least forty (40%) per cent thereof shall be paid the first year and the remainder the second year and when such purchase price is extended over a term of three (3) years at least one-third of such purchase price to be paid each year; provided that, at the time of entering into the agreement for such purchase, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the purchase price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

(3) Every contract entered into for the rental of machinery, equipment, apparatus, appliances, materials or supplies of any kind, which shall provide for payment of rental, by the county, and that after a certain fixed amount has been paid as rental, the property shall become the property of the county, or any other similar provisions or conditions, shall be deemed and construed to be a contract for sale of such property, and all of the provisions of this section shall apply thereto and govern and control the same."

Approved: March 13, 1969.

CHAPTER NO. 332

An Act Providing for the Voluntary Sterilization in Certain Cases; Creating a State Board of Eugenics to Administer the Act; Setting Forth the Powers and Duties of Such Board; Setting Standard for the Application of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose.

Section 1. The purpose of the act is to provide a method through proper hearing whereby certain persons

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whose sterilization would benefit themselves and the state may voluntarily consent to such sterilization under adequate safeguards protecting them against involuntary or unnecessary sterilization.

Persons to whom act applies.

The persons to whom this act is applicable are those who, under appropriate standards, would be diagnosed as capable of consent to sterilization but whose capacity to consent has been questioned by a licensed physician, and who, if they should procreate offspring, might be expected either,

(1) to transmit mental deficiencies to such offspring, or

(2) be unable to adequately care for or rear such offspring without the likelihood of adverse effects on such offspring caused by such environment.

Further, the group to which this act applies are those who have the capacity to appreciate and understand the nature of the medical treatment they are to undergo and the consequences thereof and to consent voluntarily to such treatment.

State board of eugenics.

Section 2. To carry out the purposes of this act, there is hereby created and established for Montana a state board of eugenics which shall consist of the following:

(1) Two (2) physicians licensed to practice medicine and surgery in the state of Montana to be appointed by the governor after considering the recommendation of the Montana medical association, the first such physician appointments to be for a term of two (2) and three (3) years respectively, and thereafter each such physician appointment to be for a term of three (3) years;

(2) One (1) lawyer licensed to practice law in the state of Montana to be appointed by the governor for a term of three (3) years after considering the recommendation of the Montana bar association;

(3) Three (3) lay members and a psychologist to be appointed by the governor, the first such lay member appointees shall be for a term of one (1), two (2), and three (3) years respectively and thereafter each such lay member appointee to be for a term of three (3) years;

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the psychologist appointee shall be for a term of three (3) years;

(4) The director of the department of institutions who shall be an ex officio member of the board and shall act as its secretary and the keeper of its books and records.

Duty of state board—hearing.

Section 3. It shall be the duty of the state board of eugenics to receive applications by or on behalf of persons covered by this act to be sterilized. Upon receipt of such application, which shall be in any form calculated to apprise the board of the desire of the applicant to be sterilized, the board shall conduct a hearing at which the applicant must be present in person for examination by the board and evidence must be presented to establish:

(1) Whether the applicant is one of the group covered by this act;

(2) Whether it would be in the best interest of the applicant and the state for the applicant to be sterilized;

(3) Whether evidence by a qualified clinical geneticist or by someone recognized by said board of eugenics as having expertise in clinical genetics indicates that sterilization is desirable and beneficial to the applicant;

(4) Whether the applicant, whether or not a minor, is capable of understanding and does understand the nature and consequences of the medical treatment he or she will undergo and with such understanding voluntarily consents thereto;

(5) Whether such medical treatment can be carried out without unreasonable risk to the life and health of the applicant;

(6) The method and manner in which such sterilization is to be accomplished.

Designation of physician.

At such hearing the applicant shall designate the person to perform such sterilization who may be any physician and surgeon licensed to practice medicine in the state of Montana and further the applicant at such hearing shall sign a written voluntary consent to such sterilization in the form to be provided by the board.

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Findings of board.

Section 4. If, after the hearing, the board shall find:

(1) That the applicant is one of the group covered by this act;

(2) That it would be in the best interest of the applicant and the state that the applicant be sterilized;

(3) That the applicant, whether or not a minor, is capable of understanding and does understand the nature and consequences of the medical treatment he or she will undergo and with such understanding voluntarily consents in writing thereto;

(4) That such medical treatment can be carried out without unreasonable risk to the life and health of the applicant;

(5) That the method and manner in which such sterilization is to be accomplished is by such procedures and under such conditions as are medically approved according to the standards for such procedures in the state of Montana;

(6) That the person designated to perform such sterilization is one qualified under this act to perform the same;

(7) That the applicant has in writing voluntarily consented to such medical treatment.

(8) That the parents or guardian if any exist have given written consent to the sterilization.

It shall make a certificate reciting such findings and signed by all member of the board. The original of such certificate shall be sent to the physician designated by the applicant to perform the medical treatment; one copy thereof shall be sent to the applicant or his or her parent, guardian or custodian and one copy to remain in the permanent files of the board. Upon receipt of the certificate the physician designated to perform the medical treatment may proceed with such medical treatment in accordance with the certificate. Arrangements for such medical treatment shall be made between the physician designated in the certificate and the applicant or his or her parent, guardian or custodian.

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Exemption from liability.

Section 5. Neither the members of the state board of eugenics nor any physician and surgeon or assistant concerned nor any other person participating in the execution of the provisions of this act in conformity with the board's certificate shall be thereafter liable either civilly or criminally to anyone for having performed or authorizing the performance of such sterilization; provided, that such physician or surgeon or assistant concerned with nevertheless be liable for any damage caused by the negligent performance of such sterilization in accordance with the general law of the state of Montana covering such negligence.

Applicant incapable of voluntary consent.

Section 6. If, upon such hearing, the board shall find that the applicant does not possess the capacity for voluntary consent to sterilization, as set forth in section 3 and section 4 of this act, the board shall make a certificate setting forth such finding, the original of which shall be sent to the physician designated by the applicant to perform such medical treatment; one copy shall be sent to the applicant or his or her parent, guardian or custodian, and one copy to remain in the permanent files of the board and thereafter it shall be unlawful, and punishable as a misdemeanor, for any person to perform or assist in the performance of a sterilization of the applicant or to produce or assist directly or indirectly in the procurement of such sterilization on such applicant and further, any such person shall be civilly liable for damages for the performance or the procuring directly or indirectly of the performance of eugenical sterilization upon such applicant. However, nothing in this act shall be deemed to prohibit a physician, at the request of the applicant, his or her parent, guardian or custodian, from performing a sterilization procedure on the such applicant for purely medical as distinguished from eugenical reasons.

Effective immediately.

Section 7. This act shall be effective upon passage and approval.

Approved: March 13, 1969.

CHAPTER NO. 333

An Act to Amend Section 11-2010, R.C.M. 1947, to Broaden the Powers of Volunteer Fire Districts to Include the Power to Contract With Private Parties to Extend

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Fire Protection to Private Property Lying Within Five (5) Miles of the Farthest Limits of the District; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2010, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-2010. **Trustees of fire districts—mutual aid agreements.** Trustees of fire districts—mutual aid agreements.

(a) Whenever the board of county commissioners shall have established a fire district in any unincorporated territory, town or village, said commissioners may contract with a city, town or private fire company to furnish fire protection for property within said district, or shall appoint five qualified trustees to govern and manage the affairs of the fire district, who shall hold office until their successors are elected and qualified, as herein after provided. Qualifications of electors and trustees, terms of office, vacancies, manner and date of elections, shall, as far as possible, be the same as provided in the school election laws for school districts of the second class; except, that only electors who are taxpayers affected by the special fire district levies may vote at such elections, and be qualified to serve as trustees; and except, also, there need be no special registration of electors.

(b) **Power of trustee.** The trustees shall organize by choosing a chairman, and appointing one member to act as secretary. They shall prepare and adopt suitable bylaws; appoint and form fire companies that shall have the same duties, exemptions, and privileges as other fire companies. The trustees shall have the authority to provide adequate and standard fire-fighting apparatus, equipment, housing and facilities for the protection of the district; and shall prepare annual budgets and request special levies therefor. The budget laws relating to county budgets, shall, as far as applicable, apply to fire districts.

(c) The trustees of such fire district may contract with the council of any city or town, or with the trustees of any other fire district established in any unincorporated territory, town or village, lying within five (5) miles of the farthest limits of the district, whether such city

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or town or other fire district shall lie within the same county or another county, for the extension of fire protection service by such city or town, or by such other fire district, to property included within the district, and may agree to pay a reasonable consideration therefor, provided, that the owners of ten per cent (10%) of the taxable value of the property in any fire district may elect to make a contract with the city fire department for fire protection, or to be included in the fire district protection facilities. Likewise, the trustees may contract to permit the fire district equipment and facilities to be used by or for such cities or towns lying within the district, or by such cities, towns, or other fire districts lying within five (5) miles of the farthest limits of the district. *Likewise, the trustees may enter into contracts with public or private parties under which the district fire company may extend fire protection to public or private property lying more than one (1) mile outside of the district or any other district or city limits, but within five (5) miles of the farthest limits of the district, whether such public or private property shall lie within the same county or another county; and the district fire company may use the fire district equipment and facilities outside of the district in the performance of such contracts. All monies received from such contracts shall be deposited in the county treasurer's office and credited to the fire district fund holding such contracts.*

(d) A mutual aid agreement is an agreement for protection against natural or man-made disasters. Fire district trustees may enter such agreements with the proper authority of

(1) other fire districts

(2) unincorporated municipalities

(3) incorporated municipalities

(4) state agencies which have fire prevention services

(5) private fire prevention agencies

(6) federal agencies.''

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act is effective on its passage and approval. Effective immediately.

Approved: March 13, 1969.

CHAPTER NO. 334

An Act to Amend Section 53-136, R.C.M. 1947, to Include Alteration or Forgery of Any Certificate of Title.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-136, R.C.M. 1947, is amended to read as follows: Amending clause.

"53-136. **Alteration or forgery of certificate of title or assignment thereof and penalty therefor.** Any person who shall alter or forge or cause to be altered or forged, any *motor vehicle* certificate of title or any assignment thereof, or who shall hold or use any such certificate or assignment knowing the same to have been altered or forged, shall be deemed guilty of a felony, upon which conviction thereof shall be liable to pay a fine of not more than five thousand dollars *($5,000)* or to imprisonment in any penal institution within the state for a period of not more than ten *(10)* years, or both, in the discretion of the court." Alteration or forgery of certificate of title—penalty.

Approved: March 13, 1969.

CHAPTER NO. 335

An Act Amending Section 16-4522, R.C.M. 1947, Pertaining to County Water and Sewer Districts to Allow the District to Incur a Bonded Indebtedness When Sixty Percent (60%) or More of the Votes Cast at the Election Are in Favor of Doing So.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-4522, R.C.M. 1947, is amended to read as follows: Amending clause.

"16-4522. *Sixty percent (60%)* **vote necessary.** If from such returns it appears that *sixty percent (60%)* or more 60% vote necessary.

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of the votes cast at such election were in favor of and assented to the incurring of such indebtedness, then the board of directors may, by resolution, at such time or times as it deems proper, provide for the form and execution of such bonds and for the issuance of any part thereof, and may sell or dispose of the bonds so issued at such times or in such manner as it may deem to be to the public interest.''

Effective immediately.

Section 2. This act shall be in full force and effect on and after the date of passage and approval.

Approved: March 13, 1969.

CHAPTER NO. 336

An Act to Create in the Earmarked Revenue Fund of the State of Montana a Motorboat Certificate Identification Account; Requiring All Fees Collected Under Section 69-3504, R.C.M. 1947, to Be Deposited in This Account and Be Used Only for the Administration and Enforcement of Title 69, Chapter 35, R.C.M. 1947; and Requiring the Fish and Game Commission to Enforce the Provisions of Title 69, Chapter 35, R.C.M. 1947; Amending Sections 69-3504 and 69-3517, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-3504, R.C.M. 1947, is amended to read as follows:

Identification number.

"69-3504. **Identification number.** (a) The owner of each motorboat or vessel requiring numbering by this state shall file an application for number, accompanied by a certificate of tax of personal property showing payment of tax on the motorboat or vessel for the current year, with the board or its designated representative, on forms approved by the board. The application shall be signed by the owner of the motorboat or vessel, and shall be accompanied by a fee of three ($3.00) dollars. Upon receipt of the application in approved form and certificate hereinabove referred to, the board shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat or vessel and the name and address of the

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owner. The owner shall paint on or attach to each side of the bow of the motorboat or vessel the identification number in such manner as may be prescribed by rules and regulations of the board, in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat or vessel for which issued, whenever such motorboat or vessel is in operation.

(b) The numbering requirements of this act shall apply to motorboats or vessels operated by manufacturers or dealers except that the description of the motorboat or vessel shall be omitted from the certificate of number and such number shall be permitted to be transferred from one vessel to another. In lieu of the descriptive material on said certificate of number the word 'manufacturer' or 'dealer' as appropriate, will appear on said certificate. The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to a vessel to be demonstrated or tested so long as the number is exhibited so as to in all other respects meet the requirements of act relating to display of numbers.

(c) The owner of any motorboat or vessel already covered by a number in full force and effect, which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state, shall record the number prior to operating the motorboat or vessel on the waters of this state in excess of the ninety day reciprocity period provided for in section 69-3506(1). Such recordation shall be in the manner and pursuant to the procedure required for the award of number under subsection (a) of this section, except that no additional or substitute number shall be issued.

(d) Should the ownership of a motorboat or vessel change, a new application form with fee shall be filed with the board and a new certificate of number shall be awarded in the same manner as provided for in an original award of number, provided further that the number assigned may be determined by the board.

(e) In the event that an agency of the United States government shall have in force an over-all system of

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identification numbering for motorboats or vessels within the United States, the numbering system employed pursuant to this act by the board shall be in conformity therewith.

(f) The board may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the board shall be valid as if awarded directly by the board.

(g) All records of the board made or kept pursuant to this act shall be public records; provided that the board shall submit to the registrar of motor vehicles of this state, correct copies of all certificates of registration issued pursuant to this act; and provided further that said registrar shall make said records immediately available to all law enforcement offices of this state.

(h) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period not to exceed three years, unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same. The board shall notify each owner of a registered vessel of expiration of registration a reasonable time prior to expiration of registration.

(i) The board shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

(j) In event of transfer of ownership, the purchaser shall furnish the board notice of the acquisition of all or any part of his interest other than the creation of a security interest in a motorboat or vessel numbered in this state pursuant to subsections (a) and (b) of this section, or of the destruction or abandonment of such motorboat or vessel, within reasonable time thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such motorboat or vessel except that in the case of a transfer of a part interest which does not

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affect the owner's right to operate such motorboat or vessel, such transfer shall not terminate the certificate of number.

(k) Any holder of a certificate of number shall notify the board within reasonable time if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the board with his new address. The board may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

(l) No number other than the number awarded to a motorboat or vessel or granted reciprocity pursuant to this act, shall be painted, attached or otherwise displayed on either side of the bow of such motorboat or vessel.

(m) Fees collected under the provision of this section shall be transmitted to the state treasurer who shall deposit the fees in the motorboat certificate identification account of an earmarked revenue fund. These fees shall be used only for the administration and enforcement of sections 69-3501 through 69-3508.1 and 69-3508.2 through 69-3518, R.C.M. 1947."

Section 2. Section 69-3517, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-3517. **Enforcement of act.** It shall be the duty *of the fish and game commission to enforce the sections of this law. The state fish and game director shall employ all the necessary personnel to comply with this section. All sheriffs and peace officers of the state of Montana shall have authority to enforce provisions of sections 69-3501 through 69-3518."* Enforcement of act.

Approved: March 13, 1969.

CHAPTER NO. 337

An Act to Provide for the Acquisition and Designation of Real Property by the State, Counties and Municipalities of Real Property for Use as Permanent Open-Space Land.

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Be it enacted by the Legislative Assembly of the State of Montana:

Open-Space Land Act.

Section 1. This act shall be known and may be cited as the "Open-Space Land Act."

Providing for acquisition and designation of real property for use as permanent open-space land.

Section 2. The legislature finds that the rapid growth and spread of urban development are creating critical problems of service and finance for the state and local governments; that the present and future rapid population growth in urban areas is creating severe problems of urban and suburban living; that the provision and preservation of permanent open-space land are necessary to help curb urban sprawl, to prevent the spread of urban blight and deterioration, to encourage and assist more economic and desirable urban development, to help provide or preserve necessary park, recreational, historic and scenic areas, and to conserve land and other natural resources; that the acquisition or designation of interests and rights in real property by public bodies to provide or preserve permanent open-space land is essential to the solution of these problems, the accomplishment of these purposes, and the health and welfare of the citizens of the state; and that the exercise of authority to acquire or designate interests and rights in real property to provide or preserve permanent open-space land and the expenditure of public funds for these purposes would be for a public purpose.

Pursuant to these findings, the legislature states that the purposes of this act are to authorize and enable public bodies to provide and preserve permanent open-space land in urban areas in order to assist in the solution of the problems and the attainment of the objectives stated in its findings.

Section 3. The following terms whenever used or referred to in this act shall have the following meanings unless a different meaning is clearly indicated by the context:

"Public body."

(a) "Public body" means the state, counties, cities, towns and other municipalities.

"Urban area."

(b) "Urban area" means any area which is urban in character, including surrounding areas which form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation

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facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

"Open-space land."

(c) "Open-space land" means any land in an urban area which is provided or preserved for (1) park or recreational purposes, (2) conservation of land or other natural resources, (3) historic or scenic purposes, or (4) assisting in the shaping of the character, direction, and timing of community development.

"Comprehensive planning."

(d) "Comprehensive planning" means planning for development of an urban area and shall include: (1) preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities, together with long-range fiscal plans for such development; (2) programming and financing plans for capital improvements; (3) coordination of all related plans and planned activities at both the intragovernmental and intergovernmental levels; and (4) preparation of regulatory and administrative measures in support of the foregoing.

Acquisition of land.

Section 4. To carry out the purposes of this act, any public body may (1) acquire by purchase, gift, devise, bequest or grant title to or any interests or rights in real property that will provide a means for the preservation or provision of permanent open-space land and (2) designate any real property in which it has an interest to be retained and used for the preservation and provision of permanent open-space land. The use of the real property for permanent open-space land shall conform to comprehensive planning being actively carried on for the urban area in which the property is located.

No conversion of open-space land.

Section 5. (a) No open-space land, the title to, or interest or right in which has been acquired under this act or which has been designated as open-space land under the authority of this act shall be converted or diverted from open-space land use unless the conversion or diversion is determined by the public body to be (1) essential to the orderly development and growth of the urban area, and (2) in accordance with the program of comprehensive planning for the urban area in effect at the time of conversion or diversion. Other real property of at least equal

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fair market value and of as nearly as feasible equivalent usefulness and location for use as permanent open-space land shall be substituted within a reasonable period not exceeding one (1) year for any real property converted or diverted from open-space land use. The public body shall assure that the property substituted will be subject to the provisions of this act.

(b) A public body may convey or lease any real property it has acquired or which has been designated for the purposes of this act. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection (a) of this section.

Powers of public body.

Section 6. (a) A public body shall have all the powers necessary or convenient to carry out the purposes and provisions of this act, including the following powers in addition to others granted by this act:

(1) to borrow funds and make expenditures necessary to carry out the purposes of this act;

(2) to advance or accept advances of public funds;

(3) to apply for and accept and utilize grants and any other assistance from the federal government and any other public or private sources, to give such security as may be required and to enter into and carry out contracts or agreements in connection with the assistance, and to include in any contract for assistance from the federal government such conditions imposed pursuant to federal laws as the public body may deem reasonable and appropriate and which are not inconsistent with the purposes of this act;

(4) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this act;

(5) in connection with the real property acquired or designated for the purposes of this act, to provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities or structures that may be necessary to the provision, preservation, mainte-

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nance and management of the property as open-space land;

(6) to insure or provide for the insurance of any real or personal property or operations of the public body against any risks or hazards, including the power to pay premiums on the insurance;

(7) to demolish or dispose of any structures or facilities which may be detrimental to or inconsistent with the use of real property as open-space land; and

(8) to exercise any or all of its functions and powers under this act jointly or cooperatively with public bodies of one or more states, if they are so authorized by state law, and with one or more public bodies of this state, and to enter into agreements for joint or cooperative action.

(b) For the purposes of this act, the state, or a city, town, other municipality, or county may:

(1) appropriate funds;

(2) levy taxes ond assessments *according to existing codes and statutes not to exceed one (1) mill;*

(3) issue and sell its general obligation bonds in the manner and within the limitations prescribed by the applicable laws of the state; and

(4) exercise its powers under this act through a board or commission, or through such office or officers as its governing body by resolution determines, or as the governor determines in the case of the state.

Comprehensive planning.

Section 7. The state, counties, cities, towns, or other municipalities in an urban area, acting jointly or in cooperation, are authorized to perform comprehensive planning for the urban area and to establish and maintain a planning commission for this purpose and related planning activities. Funds may be appropriated and made available for the comprehensive planning, and financial or other assistance from the federal government and any other public or private sources may be accepted and utilized for the planning.

Public land exempt from taxation.

Section 8. Where an interest in real property less than the fee is held by a public body for the purposes of this act, assessments made on the property for taxation shall

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reflect any change in the market value of the property which may result from the interest held by the public body. The value of the interest held by the public body shall be exempt from property taxation to the same extent as other property owned by the public body.

Saving clause.

Section 9. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

Approved: March 13, 1969.

CHAPTER NO. 338

An Act to Provide a Comprehensive Revision of the Act Regulating the Practice of Medicine Within the State of Montana and by Stating the Purposes of Said Act; by Defining the Practice of Medicine and by Providing Exemptions From Licensing Requirements; by Creating the State Board of Medical Examiners and Defining the Qualifications of, and Appointment of Members to, Said Board and by Setting the Term of Office of the Members of Said Board; by Providing for the Organization, the Policy, the Powers and Duties, the Meetings and the Records of the Board and for the Compensation of the Members of Said Board; by Defining the Kinds of Certificates for Licensure and for the Issuance and Renewal Thereof; by Defining the Practice Authorized by the Certificates for Licensure; by Providing for Licensure by Reciprocity or Endorsement; by Defining the Qualifications for Licensure to Practice Medicine and Providing Limitations, by Defining Approved Medical School, Approved Internship and Approved Residency;

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by Establishing License Fees and Limiting Authority to Impose Same; by Providing for Licensure to Practice Medicine and for Applications for License by Examination, and Otherwise, and for the Issuance or Refusal of License; by Prohibiting Practice Prior to Licensure; by Providing for the Validation of Licenses to Practice Medicine and Surgery Heretofore Issued; by Defining Unprofessional Conduct and by Providing for the Revocation or Suspension of Licenses and for the Disciplining of, and the Procedure for Disciplining License Holders; by Prohibiting the Practice of Medicine Without a License and Providing Penalties Therefor; by Providing for Annual Registration, and Fees Therefor, and Limiting Authority to Impose Such Fees; by Establishing the Board of Medical Examiners' Fund and Providing for Deposits Therein and Withdrawals Therefrom and for Reports in Connection Therewith; by Providing for the Transfer of Records, Supplies and Moneys from the State Board of Medical Examiners Hereby Abolished to the New Board Hereby Created; by Providing for Injunctive Relief in Enforcing Said Act and the Manner of Charging Violations Thereunder; by Providing for the Issuance of Subpoenas Including Manner of Issuance, Fees and Service Thereof, and Penalties for Failure to Obey Same; by Providing for Notice of Change of Address or Name of Licensee; by Providing for Service of Notice or Other Process on Licensees; by Providing a Saving Clause; and by Repealing Sections 66-1001 Through 66-1009, Both Inclusive, of the R.C.M. 1947, Relating to Practitioners of Medicine and Surgery and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing That Said Act Shall Be and Become Effective on Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Short title.** This act shall be known as the "Medical Practice Act." Medical Practice Act.

Section 2. **Purpose of medical practice act.** It is hereby declared, as a matter of legislative policy in the state of Montana, that the practice of medicine within the state of Montana is a privilege granted by the legislative authority and is not a natural right of individuals and that it is deemed necessary, as a matter of Purpose.

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such policy and in the interests of the health, happiness, safety and welfare of the people of Montana, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of medicine and to license competent physicians to practice medicine and thereby provide for the health needs of the people of Montana.

Practice of medicine defined—exemptions from licensing requirements.

Section 3. **Practice of medicine defined—exemptions from licensing requirements.** (1) For the purpose of this act the term "practice of medicine" shall mean:

(a) the practice of medicine by any person shall mean the diagnosis, treatment or correction of, or the attempt to, or the holding of oneself out as being able to diagnose, treat or correct any and all human conditions, ailments, diseases, injuries or infirmities, whether physical or mental, by any means, method, devices or instrumentalities.

If any person who does not possess a license to practice medicine within this state, as in this act provided, and who shall not be exempted from the licensing requirements hereunder, shall do any of the acts hereinabove mentioned as constituting the practice of medicine, he shall be deemed to be practicing medicine without complying with the provisions of this act and in violation thereof.

(2) Nothing herein shall be construed to prohibit or to require a license hereunder with respect to, any of the following acts:

(a) The gratuitous rendering of services in cases of emergency and catastrophe or either of them;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory, provided, that if any such physician does not limit such services to an occasional case or if he has any established or regularly used hospital connections in this state of if he maintains or is provided with, for his regular use, any office or other place for the rendering of such services, he must possess a license to practice medicine in this state;

(c) the practice of dentistry under the conditions and

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limitations defined by the laws of this state as now or hereafter enacted;

(d) the practice of chiropody (podiatry) under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(f) the practice of osteopathy under the conditions and limitations defined by the laws of this state as now ore hereafter enacted;

(g) the practice of chiropractic under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(h) the practice of Christian Science, with or without compensation; and ritual circumcisions by Rabbis;

(i) the performance by commissioned medical officers of the armed forces of the United States of America or of the United States public health service or of the United States veterans administration of their lawful duties in this state as such officers;

(j) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as such;

(k) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, except as otherwise provided herein, subject to the conditions and limitations provided by this act;

(l) the rendering of services by a physical therapist, technician, or other para-medical specialist, under the personal and responsible direction and supervision of a person licensed under the laws of this state to practice medicine, but nothing in this exemption shall be deemed to extend the scope of any such para-medical specialist; and

(m) the practice by persons licensed under any law of this state as now or hereafter enacted to practice a limited field of the healing arts and not hereinbefore

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specifically designated, under the conditions and limitations defined by such law;

Provided, however, that all licensees in this subsection (2) designated or referred to, who are licensed to practice a limited field of healing arts, shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses, and shall not use the title M.D., or any word or abbreviation to indicate, or to induce others to believe that he or she is engaged in the diagnosis or treatment of persons afflicted with disease, injury or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed.

State board of medical examiners—qualifications and appointment.

Section 4. **State board of medical examiners—qualifications and appointment.** There is hereby created the Montana state board of medical examiners, herein referred to as the board, which shall consist of seven (7) members, to be appointed by the governor, with the advice and consent of the senate, as herein provided, and to have the qualifications herein prescribed. Upon the taking effect of this act, the state board of medical examiners, as constituted under the laws of this state immediately prior thereto, is hereby abolished but the members thereof shall constitute the initial board under this act and the respective terms of such members shall extend through and expire on September 1 of the year during which their respective terms, as determined by their appointment under such prior law, would have expired. The terms of their successors shall be so arranged as to succeed the present incumbents as their terms expire. The board shall be comprised at all times of seven (7) members having the degree of doctor of medicine, all of whom shall be citizens of the United States and shall have been licensed and shall have practiced medicine in this state for at least five (5) years, not more than one (1) of whom shall be from the same county to insure reasonable representation on said board from the several parts of the state, and, all of whom shall have been residents of this state for at least five (5) years. All vacancies occurring shall be filled by appointment or reappointment by the governor with the advice and consent of the senate. Appointments made when the senate is not in session shall take effect immediately, and may be confirmed at the next ensuing session of the senate. Each member of the board shall,

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before he enters upon the duties of his office, take an oath or affirmation to support the constitution of the United States and of the state of Montana and faithfully to perform the duties of the office upon which he is about to enter. Members of the board shall remain in office until their successors have been appointed. A member of the board may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence or unprofessional or dishonorable conduct.

State board of medical examiners—term of medical examiners.

Section 5. **State board of medical examiners—term of medical examiners.** The members appointed to the board of medical examiners as in this act provided shall hold their respective offices for seven (7) years, or until their successors have been appointed, each said term to commence on September 1 of each year of appointment, provided, however, that the terms in office of those constituting the present board shall not be affected by the provisions of this act, except as to the date of expiration.

Organizations.

Section 6. **Organization.** The board of medical examiners shall, at the first meeting each year, elect from among their members a president and vice-president; and appoint an executive secretary, who may be a board member or another person. The board shall adopt a seal, upon which shall appear the words "The Board of Medical Examiners of Montana" and the further words "Official Seal" and all acts, rules, orders, regulations, certificates and licenses shall be authenticated by said seal.

Policy.

Section 7. **Policy.** The board shall maintain reasonable and continuing supervision and surveillance over all licensees under this act to insure that such licensees maintain standards of conduct and exercise the privileges granted hereunder in the greatest public interest and to carry out the purposes and provisions of this act.

Powers and duties of board.

Section 8. **Powers and duties of board.** In addition to all of the powers and duties conferred and imposed upon the board by this act, the board shall have and exercise the following powers and duties:

(1) To adopt and promulgate such rules and regulations as the board may deem necessary or proper to carry out the provisions and purposes of this act which shall be fair, impartial and nondiscriminatory; for the purpose of this act all rules and regulations adopted by the state

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board of medical examiners as constituted under the prior laws of this state and in force and effect immediately prior to the effective date of this act shall remain in full force and effect until superseded by the rules and regulations adopted hereunder by the board;

(2) To hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board; and, through any member thereof, or the executive secretary, to subpoena witnesses, administer oaths, compel the testimony of witnesses and the production of books, papers and records relevant to any inquiries and to take and receive evidence by deposition, the commission being issued by the president of the board and the law and practice as to depositions in state district courts being applicable in all reasonable respects, and no such deposition shall be suppressed if fairly taken and if no injustice will result from its admission;

(3) To appoint, employ, and prescribe the duties and compensation of an executive secretary who shall be the executive officer of the board, legal counsel and such other personnel as the board shall deem necessary, subject to the constitution and the laws of this state;

(4) To aid the several county attorneys of this state in the enforcement of this act and in the prosecution of all persons, firms, associations or corporations charged with the violations of any of its provisions.

Meetings.

Section 9. **Meetings.** The board of medical examiners shall hold meetings for examinations, and for the transaction of such other business as may properly come before the board at least twice annually at times and places to be set by the board.

The president of the board may call such special meetings of the board as may be deemed advisable or necessary.

Four (4) members of said board shall constitute a quorum.

Records.

Section 10. **Records.** The board shall keep a record of the proceedings thereof, and also records of all applicants for a certificate and a register of all licenses. The register is prima facie evidence of all the matters therein kept.

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Compensation of members.

Section 11. **Compensation of members.** Each member of the state board of medical examiners shall receive twenty-five dollars ($25) per diem, and mileage equal to that allowed by law to the members and employees of any other state agency, board or commission, while in the active and necessary discharge of his duties.

Kinds of certificates—issuance—reciprocity—endorsement—renewal.

Section 12. **Kinds of certificates—issuance—reciprocity certificates and certificates by endorsement—renewal.** The board may issue two (2) forms of certificates under its seal, the physician's certificate and the temporary certificate. The physician's certificate shall be signed by the executive secretary and the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates shall be designated as:

(a) physician's certificate, which is subject to annual registration;

(b) temporary certificate, which is subject to specifications and limitations imposed by the board.

Statement as to practice permitted.

Section 13. **Statement as to practice permitted.** The certificates issued shall state the extent and character of the practice that is permitted, and shall be in the form prescribed by the board. Neither the privileges nor the obligations granted to or imposed upon licensees may be altered except by legislative enactment or by action of the board duly authorized hereunder.

Practice authorized by certificate—physician's certificate.

Section 14. **Practice authorized by certificates—physician's certificate.** The physician's certificate, which may be issued only to citizens of the United States, authorizes the holder to perform one or more of the acts embraced in section three (3) of this act in a manner reasonably consistent with his training, skill and experience.

Temporary certificate.

Section 15. **Practice authorized by temporary certificate.** The temporary certificate, which may be issued to any citizen or to an alien otherwise qualified for a physician's certificate, and which may be issued for a period not to exceed one (1) year subject to renewal for additional periods of one (1) year, but not to exceed five (5) such renewals, at the discretion of the board, authorizes the holder to perform one (1) or more of the acts

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embraced in section three (3) of this act in a manner reasonably consistent with his training, skill and experience, subject, nevertheless, to all specifications, conditions and limitations imposed by the board.

Qualifications for licensure—physician's certificates, reciprocity and endorsement.

Section 16. **Qualifications for licensure — physician's certificates, reciprocity and endorsement.** (1) Subject to the other provisions and conditions of this act, a physician's certificate, or a certificate by reciprocity or a certificate by endorsement shall be granted by the board to an applicant therefor only upon the basis of:

(a) the passing by the applicant of an examination given and graded by the board; or

(b) a certification of record or other certificate of examination issued to or for the applicant by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee, or successors, certifying that the applicant has passed an examination given by such board; or

(c) a valid, unsuspended and unrevoked license or certificate issued to the applicant on the basis of an examination, by a duly constituted examining board under the laws of any other state or any territory of the United States or of the District of Columbia or of any foreign country whose licensing standards at the time such license or certificate was issued were, in the considered judgment of the board, essentially equivalent to those of the state of Montana for the granting of a license to practice medicine, provided:

(i) that under the scope of such license or certificate the applicant was authorized to practice medicine in such state, territory or country;

(ii) that no applicant who applies for a license on the basis of an examination and fails the examination shall thereafter be granted a license based on credentials from another state, territory or foreign country or on a certificate issued by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee or successors;

(iii) that the board may, by specific regulation, prescribe and enforce reciprocity or endorsement require-

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ments current with changes in standards in the practice of medicine; and

(iv) that the board may, in the case of an applicant for admission by reciprocity, or endorsement, require a written or oral examination of said applicant; and

(v) the board may require that graduates of foreign medical schools shall have passed the examination given by the Education Council for Foreign Medical Graduates, or successors.

Qualifications for licensure— temporary certificate.

Section 17. **Qualifications for licensure — temporary certificate.** (1) Subject to the other provisions and conditions of this act, a temporary certificate to practice medicine may be granted by the board to an applicant therefor, who may be either a citizen of the United States or an alien, upon the basis of;

(a) the passing by the applicant of an examination given and graded by the board; or

(b) a certification of record or other certificate of examination issued to or for the applicant by the National Board of Medical Examiners or successors, or by the Federation Licensing Examination Committee, or successors, certifying that the applicant has passed an examination given by the board; or

(c) a valid, unsuspended and unrevoked license of any certificate issued to the applicant, on the basis of an examination, by a duly constituted examining board under the laws of any other state or of any territory of the United States or of the District of Columbia or of any foreign country whose licensing standards at the time such license or certificate was issued were essentially equivalent, in the judgment of the board, to those of the state of Montana at the time for the granting of a license to practice medicine; and

(d) being a graduate of an approved medical school who has completed one (1) year of internship, or its equivalent, and is of good moral character and good conduct; and

(e) the board may require that graduates of foreign medical schools shall have passed the examination given by by the Education Council for Foreign Medical Graduates, or successors.

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Qualifications for licensure—limitations.

Section 18. **Qualifications for licensure—limitations.** (1) No person shall be granted a physician's certificate to practice medicine in the state of Montana unless he:

(a) is at least twenty-one (21) years of age;

(b) is a citizen of the United States;

(c) is of good moral character, as determined by the board;

(d) is a graduate of an approved medical school as defined in section 19 of this act;

(e) has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is at least the equivalent of one (1) year internship as herein defined;

(f) has made a personal appearance before the board.

The board may grant such license subject to terms of probation or other conditions or limitations set by the board or may refuse to grant a license to any such person if he has committed any of the acts or offenses herein defined as unprofessional conduct, or is otherwise unqualified.

(2) No person shall be granted a temporary license to practice medicine in the state of Montana unless he:

(a) is at least twenty-one (21) years of age;

(b) is a citizen of the United States, or has filed a properly executed declaration of intention to become a citizen of the United States;

(c) is of good moral character, as determined by the board;

(d) is a graduate of an approved medical school as defined in section 19 of this act;

(e) has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is, at least, the equivalent of one (1) year internship as herein defined;

(f) has made a personal appearance before at least one (1) member of the board; and

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(g) has been approved for temporary licensure by the executive secretary of the board; and

(h) a temporary license may be issued to a physician employed by a public institution who is practicting under the direction of a licensed physician. The board may grant such temporary license subject to terms of probation or other conditions or limitations set by the board or may refuse to grant a license to any such person if he has committed any of the acts or offenses herein defined as unprofessional conduct. The issuance of a temporary certificate imposes no future obligation or duty on the part of the board to grant full licensure or to renew or extend such temporary license.

The board may, in any case of an applicant for temporary certificate, require a written, oral or practical examination of said applicant.

Approved medical school.

Section 19. **Approved medical school.** An approved medical school is a school which conforms to the minimum education standards as established by the Council on Medical Education of the American Medical Association or successors for medical schools or is equivalent in the sound discretion of the board of medical examiners of the state of Montana, it being provided that the board shall have the authority upon investigation of the educational standards and facilities thereof to approve any other medical school, including foreign medical schools.

Approved internship.

Section 20. **Approved internship.** An approved internship is an internship training program of at least one (1) year in a hospital conforming to the minimum standards for intern training established by the Council on Medical Education of the American Medical Association or successors; provided, however, that the board shall have the authority, upon investigation, to approve any other internship.

Approved residency.

Section 21. **Approved residency.** An approved residency is a residency training program in a hospital conforming to the minimum standards for residency training established by the Council on Medical Education of the American Medical Association or successors; provided, however, that the board shall have the authority upon investigation to approve any other residency. The board

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may require a resident physician to be licensed if he otherwise engages in the practice of medicine in the state of Montana.

License fee.

Section 22. **License fee.** (1) An applicant for a license to practice medicine to be issued on the basis of an examination by the board shall pay a fee of one hundred dollars ($100), and an applicant for such license to be issued on the basis of a certificate from the National Board of Medical Examiners or successors, or the Federation Licensing Examination Committee or successors, shall pay a fee of one hundred dollars ($100). An applicant for a license to practice medicine to be issued on the basis of a license or certificate from another duly constituted examining board, shall pay a fee of one hundred dollars ($100).

(2) An applicant for a temporary license shall pay an initial fee of twenty-five dollars ($25) and twenty-five dollars ($25) for each renewal thereof;

(3) No license tax shall be imposed upon physicians by a municipality or any other subdivision of the state.

Application for license.

Section 23. **Application for license.** (1) Every person desiring a license to practice medicine shall make application to the board, such application to be verified by oath and to be in such form and extent as shall be prescribed by the board. Such application shall be accompanied by the license fee and such documents, affidavits and certificates as are necessary to establish that the applicant possesses the qualifications prescribed by this act, apart from any required examination by the board. The burden of proof shall be upon the applicant, but the board may make such independent investigation as it may deem advisable to determine whether the applicant possesses such qualifications and whether the applicant has at any time committed any of the acts or offenses herein defined as unprofessional conduct, and at the board's request, the applicant shall provide necessary authorizations for the release of any and all records and information pertinent to the board's information.

(2) An applicant for a license on the basis of an examination by the board shall file his application at least thirty (30) days prior to the announced date of the examination. If such applicant is not at the time of

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filing his application a graduate of, but is then in attendance at, an approved medical school, as that term is defined in this act, he shall submit to the board, in lieu of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of such approved medical school that the applicant will receive his diploma at the end of the then current school term; but in any such case the applicant shall not be granted a certificate until he has filed with the board his diploma or other acceptable evidence of graduation from such approved medical school, and has complied with the requirements of subsection (1) of this section, and no license shall be issued to him until he has satisfied the board that he has completed at least one (1) year of an approved internship, or its equivalent, and has otherwise met the requirements for the issuance of a license under this act.

Examination.

Section 24. **Examination.** Examinations for a license to practice medicine shall be held not less than twice each year, at such time and place as shall be specified by the board. The examination shall be conducted in the English language, and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers shall not disclose the name of any applicant but shall be identified by a number to be assigned by the executive secretary of the board. The board may use the examination or portion thereof prepared by the National Board of Medical Examiners, or the examination prepared by the Federation Licensing Examination Committee, or successors.

The board may, in its discretion, give an oral or a practical examination to test the applicant's qualifications for licensure, and grant appropriate credit therefor.

The board may use other Montana physicians to assist in preparing and conducting such examination.

No persons shall be granted a license to practice medicine if he fails to attain an average grade of at least seventy-five per cent (75%). If an applicant fails to meet such minimum grade requirements in his first examination, he may, after not less than six (6) months nor more than twelve (12) months, be re-examined without an additional fee. He may take one (1) additional examina-

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tion, but not less than one (1) year after the date of the last preceding examination and he shall be required to pay a fee of fifty dollars ($50) for such additional examination. In case an applicant is prevented through no fault of his own from taking a scheduled examination he may, within two (2) years, be examined without payment of another fee or submission of a new application.

Issuance of license—prior practice prohibited.

Section 25. **Issuance of license—prior practice prohibited.** If the board determines that an applicant possesses the qualifications required by this act and is entitled thereto, the board shall issue a license to practice medicine which shall be signed by the president or vice-president and attested by the executive secretary and sealed with the seal of the board.

Prior to the issuance to him of such license, the applicant shall not engage in the practice of medicine in this state, and any person who shall practice medicine in this state without first having obtained such license shall be deemed to have violated the provisions of this act.

Validation of licenses heretofore issued.

Section 26. **Validation of licenses to practice medicine and surgery heretofore issued.** All licenses to practice medicine and surgery in this state heretofore issued by any prior board of medical examiners are hereby declared to be valid and sufficient in law and in full force and effect and shall be and are sufficient to qualify the holder thereof to practice medicine, as defined in this act, in the state of Montana.

Refusal of license.

Section 27. **Refusal of license.** If the board shall determine that an applicant for license to practice medicine does not possess the qualifications or character required by this act or that he has committed any of the acts defined in section twenty-eight (28) of this act as unprofessional conduct, it shall refrain from issuing a license. Thereupon, the board shall mail to applicant, at his last address of record with the board, written notification of its decision together with at least thirty (30) days written notice of a time and place to appear before the board in person, or by counsel, to present such statements, evidence and argument as he may desire to offer. In the event the applicant without cause fails to appear pursuant to such notice, or, after hearing held, the board

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determines he is not entitled to a license, the board shall then refuse to grant such license.

"Unprofessional conduct."

Section 28. **Unprofessional conduct.** The words "unprofessional conduct" as used in this act are declared to mean:

(a) resorting to fraud, misrepresentation or deception in applying for or in securing a license or in taking the examination provided for in this act;

(b) performing abortion contrary to law;

(c) obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury or condition of any person can be cured;

(d) wilful disobedience of the lawfully adopted rules and regulations of the board of medical examiners;

(e) conviction of any offense involving moral turpitude, or the conviction of a felony involving moral turpitude, the judgment of any such conviction, unless pending upon appeal, shall be conclusive evidence of unprofessional conduct;

(f) administering, dispensing or prescribing any narcotic or hallucinatory drug, as defined by the federal food and drug administration or successors, otherwise than in the course of legitimate or reputable professional practice;

(g) conviction or violation of any federal or state law regulating the possession, distribution or use of any narcotic or hallucinatory drug as defined by the federal food and drug administration; the judgment or conviction, unless pending upon appeal, shall be conclusive evidence of such unprofessional conduct;

(h) habitual intemperance or excessive use of narcotic drugs or of alcohol or of any other drug or substance to the extent that such use impairs the user physically or mentally;

(i) conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public;

(j) resorting to fraud, misrepresentation or deception in the examination or treatment of a person, or in billing

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or reporting to a person, company, institution or organization;

(k) testifying in court on a contingency basis;

(l) conspiring to misrepresent, or wilfully misrepresenting, medical conditions improperly to increase or decrease a settlement or award, verdict or judgment;

(m) the aiding or abetting, in the practice of medicine, of any person not licensed to practice medicine as defined under this act or of any person whose license to practice medicine is suspended;

(n) gross malpractice, or negligent practice;

(o) practicing medicine as the partner, agent or employee of, or in joint venture with, any person who does not hold a license to practice medicine within this state; provided, however, that nothing herein shall prohibit the incorporation of an individual licensee or group of licensees as a professional service corporation as provided in chapter 21 of title 15 of the Revised Codes of Montana, 1947, and provided further that this limitation shall not have application to a single consultation with or a single treatment by a person or persons duly licensed to practice medicine and surgery in another state or territory of the United States or foreign country;

(p) violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this act, or the rules and regulations authorized herein;

(q) any other act, whether hereinabove specifically enumerated or not, which, in fact, constitutes unprofessional conduct.

Revocation or suspension of license—probation.

Section 29. **Revocation or suspension of license—probation.** (1) The board may, whenever it has been brought to its attention that there is reason to suspect that any person having a license or certificate to practice medicine in this state:

(a) is mentally or physically unable, safely, to engage in the practice of medicine, or has procured his license to practice medicine by fraud or misrepresentation or through mistake, or has been declared incompetent by a court of competent jurisdiction and thereafter has not

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been lawfully declared competent or when any condition exists which impairs his intellect or judgment to such an extent as to incapacitate him for the safe performance of professional duties; or

(b) has been guilty of unprofessional conduct as defined in this act; or

(c) has practiced medicine while his license was suspended or revoked; or

(d) has, while under probation, violated the terms thereof;

make an investigation, including requiring such person to submit to a physical examination or a mental examination or both by a physician or physicians selected by the board whenever it shall appear in the best interests of the public that such evaluation be secured, to determine the probability of the existence of such conditions or the commission of any such offenses. The board may examine and scrutinize the hospital records and reports of any licensee as part of such examination and copies thereof shall be released to the board upon written request. If the board has reasonable cause to believe that such probability exists, the executive secretary or president shall mail to such person, at his last address of record with the board, a specification of the charges against him, together with a written citation of the time and place of hearing thereon, advising him that he may be present in person, and by counsel if he so desires, to offer evidence and be heard in his defense; the time fixed for such hearing shall not be less than thirty (30) days from the date of mailing the notice.

(2) Any person, including any member of the board, may file a sworn complaint with the board against any person having a license to practice medicine in this state, charging him with the commission of any of the offenses set forth in section twenty-eight (28), or subsection one (1) of this section, which complaint shall set forth a specification of the charges. When such complaint is filed, the executive secretary shall mail a copy thereof to the person so accused, at his last address of record with the board, together with a written citation of the time and place of a hearing thereon, advising him that he may be present in person, and by counsel if he so de-

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sires, to offer evidence and be heard in his defense; the time fixed for such hearing shall be not less than thirty (30) days from the date of mailing the notice.

(3) At the time and place fixed for a hearing before the board as provided in subsections (1) and (2) of this section, or at any time and place to which the matter may be continued, the board shall receive evidence upon the subject under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense and shall after consideration adopt a resolution finding him guilty or not guilty of the matters charged. If the board finds that the conditions referred to in section twenty-eight (28), or subsection one (1) of this section do not exist with reference to such person or if he be found not guilty, the board shall dismiss the charges or complaint, but if the board does find that the conditions referred to in section twenty-eight (28) or in subsection one (1) of this section do exist and such person be found guilty, the board shall:

(a) revoke his license; or

(b) suspend his right to practice for a period not exceeding one (1) year; or

(c) suspend its judgment of revocation upon the terms and conditions to be determined by the board; or

(d) place him upon probation; or

(e) take such other action in relation to disciplining him as the board in its discretion may deem proper.

(4) The executive secretary of the board in all cases of revocation, suspension or probation shall enter in its records the facts of such action, and of any subsequent action of the board with respect thereto.

(5) Upon the expiration of the term of suspension, the licensee shall be reinstated by the board, provided the holder thereof shall furnish the board with evidence that he is then of good moral character and conduct and restored to good health and that he has not practiced medicine in this state during the term of suspension. If such evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and con-

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duct or if not restored to good health or if such evidence shows he has practiced medicine in this state during the term of suspension, the board shall revoke the license at a hearing, notice of which and the procedure of which shall be as hereinabove provided, which revocation shall then be final and absolute.

(6) In case any person holding a license to practice medicine under this act shall, by any final order or adjudication of any court of competent jurisdiction, be adjudged to be mentally incompetent or insane, or addicted to the use of narcotics, his license may be suspended forthwith by the board, and anything in this act to the contrary notwithstanding, such suspension shall continue until the licensee is found or adjudged by such court to be restored to reason or cured, or until he is duly discharged as restored to reason or cured and his professional competence has been proven to the satisfaction of the board.

Review of board action.

Section 30. **Reconsideration and review of actions of board.** The board may, on its own motion or upon application, at any time after refusal, suspension or the revocation of a license, or of probation or of other action as in this act provided, reconsider its prior action and grant, reinstate or restore such license or terminate the suspension thereof or terminate probation or reduce the severity of its prior disciplinary action; provided that the taking of any such further action, or the holding of a hearing with respect thereto, shall rest in the sole discretion of the board.

Appeals from board decision.

Section 31. **Appeals from decision of board.** (1) The action of the board in refusing to grant or in revoking or suspending a license or in administering any other disciplinary action hereunder may be reviewed by the district court of the county in which such revocation was made or other action taken. Such review shall be by an appeal taken from the action of said board. The appeal is taken by serving notice of appeal upon the executive secretary of the board of medical examiners and the attorney general of the state within thirty (30) days after notice from the board of medical examiners of its decision and by filing within the same time with the clerk of the proper district court a verified copy of the decision from which appeal is taken together with a

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verified copy of any charge or charges preferred against the appellant and filed with the board of medical examiners.

(2) The appellant is required, at the time of filing such appeal, to furnish and file with the clerk of the court a good and sufficient bond, to be approved by the clerk, with two (2) good and sufficient sureties, in the sum of three hundred dollars ($300) guaranteeing the payment of all costs of the appeal should the case be decided against the appellant.

Violations—penalties.

Section 32. **Violations—penalties.** (1) Any person practicing medicine within the state without complying with the provisions of this act, or any association or corporation, (except a professional service corporation provided for by chapter 21 of title 15 of the Revised Codes of Montana, 1947) practicing medicine within this state, or any person, association or corporation violating any of the provisions of this act, or any officer or director of any such association or corporation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000) or by imprisonment in the county jail for not less than ninety (90) days or more than one (1) year, or by both, and each daily failure to comply with, or each daily violation of, the provisions of this act, shall constitute a separate offense.

(2) Any person presenting or attempting to file as his own, the diploma, license or certificate, or credentials of another, or who shall give either false or forged evidence of any kind to the board, or any member thereof, in connection with an application for a license to practice medicine, or who shall practice medicine under a false or assumed name, or who shall falsely impersonate another licensee of a like or different name, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state penitentiary for a term of not less than one (1) year or more than ten (10) years at hard labor.

Annual registration fees—limiting authority to impose registration fees.

Section 33. **Annual registration fees—limiting authority to impose registration fees.** (1) In addition to the respective license fees required of applicants, every li-

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censed physician actively practicing medicine within the state of Montana shall pay each and every year to the executive secretary of the board, an annual registration fee, not to exceed the sum of twenty-five dollars ($25), as may be prescribed by the board, and approved by the budget director. In the event any person licensed to practice medicine absents himself from the state for a period of one (1) or more years, or does not engage in active practice within the state of Montana, he may continue his license in good standing by the payment of five dollars ($5) each year, or at the discretion of the board, he may be reinstated upon the payment of a fee of five dollars ($5) for each year of absence or inactive practice.

(2) Such annual payments for registration shall be made prior to April 1 in each and every year, and a receipt acknowledging payment of the annual registration fee shall be issued by the executive secretary of the board. The board shall mail registration notices, at least sixty (60) days before such registration is due. In case of default in the payment of the annual registration fee by any person licensed to practice medicine who is actively practicing medicine in Montana, his underlying certificate to practice medicine may be revoked by the board upon thirty (30) days notice given to the delinquent of the time and place of considering such revocation. A registered or certified letter addressed to the last known address of the person failing to comply with the requirements of annual registration, as such address appears upon the records of the board, shall constitute sufficient notice of intention to revoke his underlying certificate, but no certificate shall be revoked for such nonpayment if the person authorized to practice medicine, and so notified, shall pay such annual registration fee before or at the time fixed for consideration of revocation together with a delinquency penalty of ten dollars ($10); provided, further, that said board may collect any such dues by an action at law.

(3) No registration or license fee shall be imposed upon any licensee under this act by a municipality or any other subdivision of the state.

Section 34. **Board of medical examiners fund—deposits therein — withdrawals therefrom — reports required.** There is hereby established a fund to be known as the

Board of medical examiners fund—administration.

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"ear-marked revenue fund" for the use of the board of medical examiners. All moneys from whatever source received by said board shall be turned over by the executive secretary of the board, to the state treasurer and shall be by the state treasurer deposited in the "ear-marked revenue fund" for the use of the board of medical examiners and as appropriated by the legislature. All withdrawals therefrom shall be by warrant issued by the state treasurer on the basis of a properly executed claim. In the case of a deficiency the reserves in the "ear-marked revenue fund" may be used upon approval by the budget director and the governor. Before September 1 of each even numbered year, the board shall submit a written report to the governor providing him the information required by law.

Transfer of records—supplies and moneys.

Section 35. **Transfer of records—supplies and moneys.** All records, supplies and equipment of the state board of medical examiners, hereby abolished shall be transferred to the board created by this act, and all moneys remaining to the credit of the "ear-marked revenue fund" for the use of the board of medical examiners shall, after the payment of all claims, be transferred and credited to the board created by this act.

Injunctive relief—manner of charging violation of act.

Section 36. **Injunctive relief—manner of charging violation of act.** The state board of medical examiners, notwithstanding any other provision contained in this act, may maintain an action to enjoin any person from engaging in the practice of medicine, until a license to practice medicine be procured. Any person who has been so enjoined who shall violate such injunction shall be punished for contempt of court; provided, that such injunction shall not relieve such person so practicing medicine without a license from a criminal prosecution therefor as is provided by law, but such remedy by injunction shall be in addition to any remedy provided for the criminal prosecution of such offender. In charging any person in a complaint for injunction or in an affidavit, information or indictment with a violation of this law by practicing medicine, without a license, it shall be sufficient to charge that he did, upon a certain day and in a certain county engage in the practice of medicine, he not having any license to do so, without averring any further or more particular facts concerning the same.

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Subpoena—issuance—fees—service.

Section 37. **Subpoena—how to issue—fees—service.** Whenever the board in the transaction of any of its business or in the conduct of any hearing, or whenever any person interested in such business or hearing desires to secure the presence for testimony of any person before the board, the board, or such person, may procure a subpoena from the clerk of district court of the county in which the business is to be transacted or the hearing held. The clerk of the district court shall issue the subpoena in the name of the state of Montana, commanding the person whose presence and testimony is desired to appear before the board at a certain time and place fixed by the board then and there to testify in the manner of such business or in such hearing. The subpoena shall be served in the same manner as a subpoena for a trial in the district court and shall be substantially in the same form. Fees or other charges demanded by a person commanded to appear and testify shall be only those which may be demanded by witnesses in causes in the district court and under the same circumstances.

Failure to appear or testify—penalty.

Section 38. **Failure to appear or testify—penalty.** Any person subpoenaed in the manner provided in section thirty-seven (37), who fails or refuses to appear and testify, shall be dealt with by the district court from which such subpoena was issued in the same manner and to the same effect as though the subpoena had commanded him to appear and testify in a cause on trial in said court.

Notice of change of address or name.

Section 39. **Notice of change of address or name.** Whenever any person shall apply for a license of any type to practice medicine in the state of Montana such person shall designate in his application his correct and official address to which the board shall send all communications, notices, orders, citations or other process, if any, affecting him and whenever any such person shall change his address or when the name of a licensee is changed by marriage or otherwise, such person shall within thirty (30) days notify the board in writing of his old and new address or of such former name and new name. This information shall be entered promptly by the executive secretary of the board in the official records of the board. It is hereby declared to be the duty of each person licensed to practice medicine in the state

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of Montana to keep the board advised at all times of his correct mailing address and of his correct name.

Service of notice or process.

Section 40. **Service of notice or other process.** Whenever in this act service of any form of notice, order, citation or other process is authorized and directed to be made upon any licensee practicing medicine in the state of Montana such service may be made upon such licensee by mailing such notice, order, citation or other process to him, by registered mail, at his address as shown on the records of the board. Such service shall be deemed complete when such notice, order, citation or other process shall have been registered in the United States post office with sufficient postage affixed thereto and addressed to him at the address shown on the official records of the board.

In lieu of service by registered mail, actual personal service of such notice, order, citation or other process, either within or without the state of Montana, upon any licensee shall be sufficient to vest the board with jurisdiction of such licensee.

Saving clause.

Section 41. **Saving clause.** If any section, subsection, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Effective date.

Section 42. **Effective date of act.** This act shall become effective on passage and approval by the governor.

Repealing clause.

Section 43. Sections 66-1001, 66-1002, 66-1003, as amended by section 1, chapter 119 of the laws of 1957, sections 66-1004 through 66-1009, both inclusive of the Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 13, 1969.

CHAPTER NO. 339

An Act to Amend Section 31-149, R.C.M. 1947, Establishing the Revocation Period for Driving While Under the Influence of Any Drug as Sixty (60) Days for the First Offense and One (1) Year for Subsequent Of-

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fenses Within a Five (5) Year Period; Establishing the Duration Period of Other Revocations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 31-149, R.C.M. 1947, is amended to read as follows: Amending clause.

"31-149. **Period of suspension or revocation.** (a) The board shall not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one (1) year, except as permitted under sections 31-148, 31-155, 53-424 and 53-430, *R.C.M. 1947.* Period of suspension or revocation.

(b) Any person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the period of such revocation or suspension, such person may make application for a new license as provided by law, but the board shall not then issue a new license unless and until it is satisfied after investigation of character, habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. Provided, however, when any person is convicted or forfeits bail or collateral not vacated for the offense of operating or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or narcotic drug, *or knowingly or willingly under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle* or *a* combination thereof, the board shall, upon receiving a report of such conviction or forfeiture of bail or collateral not vacated, suspend or revoke the license or driving privilege of such person for a period of *sixty* (60) days. Upon receiving a report of a conviction or forfeiture of bail or collateral for a subsequent such offense, within five (5) years thereof, the board shall suspend or revoke the license or driving privilege of such person for a period of one (1) year.

(c) The revocation period for all revocations made mandatory by section 31-146, R.C.M. 1947, shall be one

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(1) year, except as provided in subsection (b) of this section.''

Approved: March 13, 1969.

CHAPTER NO. 340

An Act Authorizing the Gift of All or Part of a Human Body After Death for Specified Purposes and Repealing Sections 69-2311, 69-2312, 69-2313 and 69-2314, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Bank or storage facility."

Section 1. **Definitions.** (a) "Bank or storage facility'' means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof.

"Decedent."

(b) ''Decedent'' means a deceased individual and includes a stillborn infant or fetus.

"Donor."

(c) ''Donor'' means an individual who makes a gift of all or part of his body.

"Hospital."

(d) ''Hospital'' means a hospital licensed, accredited or approved under the laws of any state; includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

"Part."

(e) "Part'' means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

"Person."

(f) ''Person'' means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"Physician."

(g) ''Physician'' or ''surgeon'' means a physician or surgeon licensed or authorized to practice under the laws of any state.

"State."

(h) ''State'' includes any state, district, commonwealth, territory, insular possession, and any other area

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subject to the legislative authority of the United States of America.

Section 2. **Persons who may execute an anatomical gift.**

Persons who may execute an anatomical gift.

(a) Any individual of sound mind and 18 years of age or more may give all or any part of his body for any purpose specified in section 3, the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 3:

(1) the spouse,

(2) an adult son or daughter,

(3) either parent,

(4) an adult brother or sister,

(5) a guardian of the person of the decedent at the time of his death.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 7(d).

Section 3. **Persons who may become donees; purposes for which anatomical gifts may be made.** The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

Persons who may become donees—purposes.

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(1) any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or

(3) any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation, or

(4) any specified individual for therapy or transplantation needed by him.

Manner of executing anatomical gifts.

Section 4. **Manner of executing anatomical gifts.**

(a) A gift of all or part of the body under section 2 (a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2 (a) may also be made by document other than a will. The gift becomes effective upon the death of the donor.

The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two (2) witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two (2) witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The phy-

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sician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) The donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures, except as provided in section 4, subsection (c) and section 7, subsection (b). In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose, except as provided in section 4, subsection (c) and section 7, subsection (b).

(e) Any gift by a person designated in section 2(b) shall be made by a document signed by him or made by his telegraphic recorded telephonic, or other recorded message.

Delivery of document of gift.

Section 5. **Delivery of document of gift.** If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

Amendment or revocation of the gift.

Section 6. **Amendment or revocation of the gift.** (a) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(1) The execution and delivery to the donee of a signed statment, or

(2) an oral statement made in the presence of two (2) persons and communicated to the donee, or

(3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or

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(4) a signed card or document found on his person or in his effects.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a), or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a).

Section 7. **Rights and duties at death.** (a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The physician who tends the donor at this death, or if none, the physician who certifies the death, shall not participate in the procedures for removing or transplanting a part.

(c) The provisions of this act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

Uniformity of interpretation.

Section 8. **Uniformity of interpretation.** This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Uniform Anatomical Gift Act.

Section 9. **Short title.** This act may be cited as the Uniform Anatomical Gift Act.

Repealing clause.

Section 10. **Repeal.** Sections 69-2311, 69-2312, 69-2313 and 69-2314, R.C.M. 1947, are repealed.

Approved: March 13, 1969.

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CHAPTER NO. 341

An Act to Provide a Safety Code for the State of Montana, Establishing a Department of Safety, Providing for a Safety Director to Be Appointed by the Industrial Accident Board, Providing That the Industrial Accident Board Have Supervision Over Every Place of Employment and Full Power to Enforce All Laws and Orders Concerning Safety in Places of Employment, Prescribing Methods for Enforcement and Administration of This Act; Amending Section 92-101, R.C.M. 1947; and Repealing Sections 41-1701 Through 41-1707, 92-1201 Through 92-1210 and 92-1214 Through 92-1222, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana Safety Act."

Section 1. This act may be cited as the "Montana Safety Act."

Section 2. Unless context requires otherwise, in this act:

"Board."

(1) "Board" means the industrial accident board of the state of Montana.

"Employer."

(2) "Employer" is defined as in section 92-410, R.C.M. 1947.

"Code."

(3) "Code" means a standard body of rules for safety formulated, adopted and issued by the board under the provisions of this act.

"Employee."

(4) "Employee" and "workmen" are defined as in section 92-411, R.C.M. 1947.

"Amendment."

(5) "Amendment" means such modification or change in a code as shall be intended to be of universal or general application.

"Variation."

(6) "Variation" means a special, limited modification or change in the code which is applicable only to the particular place of employment of the employer or person petitioning for such modification or change.

Safety procedures.

Section 3. Every employer shall furnish a place of employment which is safe for employees therein, and shall furnish and use, and require the use of, such safety devices and safeguards, and shall adopt and use such

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practices, means, methods, operations and processes as are reasonably adequate to render the place of employment safe, and shall do every other thing reasonably necessary to protect the life and safety of employees.

Unsafe place of employment.

Section 4. An employer who is the owner or lessee of any real property in this state shall not construct or cause to be constructed or maintained any place of employment that is unsafe.

Every employer who is the owner of a place of employment or lessee thereof, shall repair, and maintain the same as to render it safe.

Failure to use safety devices.

Section 5. No person shall remove, displace, damage, destroy or carry off or refuse to use any safety device or safeguard furnished and provided for his use in any employment or place of employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment, or fail to do any other thing reasonably necessary to protect the life and safety of such employees.

Powers and duties of board.

Section 6. In the administration of this act the board:

(1) Is vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment in this state as may be necessary to enforce and administer all laws and all lawful orders requiring such employment and places of employment to be safe and requiring the protection of the life and safety of every employee in such employment or place of employment.

(2) Shall establish a department of safety under the supervision of a safety director, to be appointed by the board ,to carry out the provisions of this act. The safety director shall be a person with at least two (2) years' experience or training in the field of industrial safety.

(3) May make, establish, promulgate and enforce all necessary and reasonable rules and provisions for the purpose of carrying this act into effect and in reference to the investigation of all violations of this act and fix and set the time and place for all hearings which may

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be necessary or expedient for the purpose of carrying the provisions of this act into effect.

(4) May on its own motion or at the request of others, subpoena witnesses, administer oaths, take depositions and fix the fees and mileage of witnesses and compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of this state, and the board shall provide for defraying the expenses thereof.

Attendance of witnesses.

Section 7. (1) The board or any member thereof, before whom testimony is to be given or produced, in the case of refusal of any witness to attend or testify or produce any papers required by such subpoena, may in applying to the district court in and for the county in which the proceeding is pending show that the witness has been subpoenaed in the manner prescribed and the witness has failed or refused to attend or produce the papers required by the subpoena or has refused to answer questions propounded to him in the course of such proceeding, and ask the court to compel the witness to attend and testify or produce such papers before the board.

(2) The court, upon such application, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court then and there to show cause why he has not attended and testified or produced the papers before the board or any member thereof.

(3) A copy of the order shall be served upon the witness.

(4) If it is apparent to the court that the subpoena was regularly issued by the board or member thereof, the court thereupon shall enter an order that the witness appear before the board or member thereof at a time and place to be fixed in such order, and testify and produce the required papers and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Powers of board after hearing.

Section 8. The board may, after hearing had upon its own motion or upon complaint, by safety orders, rules or otherwise:

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(1) Declare and prescribe what safety devices, safeguards or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law.

(2) Fix reasonable standards and prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life and safety of the employees and places of employment.

(3) Fix and order such reasonable standards for the construction, repair and maintenance of places of employment and equipment as shall render them safe.

(4) Require the performance of any other act which the protection of the life and safety of employees in employments and places of employment may demand.

Notice of hearing.

Section 9. Upon the fixing of a time and place for the holding of a public hearing for the purpose of considering and issuing rules and codes, as authorized in this act, the board shall cause a notice of the hearing to be published in one or more daily newspapers of general circulation published in this state and in such other papers of general circulation in this state as the board may deem expedient. The notice shall contain a brief statement of the time, place and purpose of the hearing. No defect or inaccuracy in the notice or in the publication thereof shall invalidate any rule or code issued or adopted by the board after the hearing.

Orders of board pertaining to safety.

Section 10. Whenever the board, after a hearing had upon its own motion or upon complaint, finds that an employment or place of employment is not safe, or that the practices or methods or operations or processes employed or used in connection therewith are unsafe, or do not afford adequate protection to the life and safety of the employees in such employments and place of employment, the board shall make and enter and serve such order relative thereto as may be necessary to render such employment or place of employment safe and protect the life and safety of employees in such employment and places of employment. The board may in the order direct that such addi-

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tions, repairs, improvements or changes be made and such safety devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or places of employment safe, in the manner and within the time specified in the order.

Prohibition of use—notice.

Section 11. (1) The board or authorized representative thereof with the approval of the board, or the safety director, upon finding any violation of any duly promulgated safety code, order or rule involving failure to install or maintain any safety appliance, device or safeguard required by such safety order, code or rule, may prohibit the further use of the machine, equipment, or apparatus constituting such violation, and when such use is prohibited shall post notice in an appropriate place in plain view of any person likely to use the same calling attention to the unsafe condition, defect, or lack of safeguard and the fact that the further use thereof is prohibited.

(2) The notice required by subsection (1) of this section shall not be removed until the required safey appliance, device or safeguard complies with the requirement of the safety order or safety code.

(3) Every person who, after the notice required by subsection (1) of this section is posted as provided in that subsection, uses or operates any place of employment, machine, device, apparatus or equipment referred to in subsection (1) of this section before it is made safe and the required safeguards or safety appliances or devices are provided, or who defaces or destroys or removes any notice required by subsection (1) of this section without the authority of the board, or who fails or refuses to file a report of accident as required by section 92-808, R.C.M. 1947, is guilty of a misdemeanor and, in addition to the punishment provided for misdemeanors, is subject to a civil penalty in an amount of not more than one thousand dollars ($1,000). The civil penalty may be imposed and collected by the board in an action brought in the name of the state of Montana in the county in which the employer resides or in which he employs workmen. Any penalty collected under this subsection shall be paid into the industrial accident administrative earmarked revenue account.

Any person aggrieved by an order prohibiting the use

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of the machine, equipment, apparatus or place of employment as provided for in this section may request a hearing before the board within twenty(20) days after entry of such order. The board shall then affirm, modify or revoke the order and all procedures of this act relative to entry of orders, rehearing and appeal shall apply.

In addition to all other remedies provided in this act, the board may bring an action to enjoin any violation of any duly promulgated safety order, code or rule.

Time for compliance.

Section 12. The board shall grant such time as may be reasonably necessary for compliance with any order, and any person affected by the order may petition the board for an extension of time, which the board shall grant if it finds the extension of time necessary.

Closing unsafe places of employment.

Section 13. The board or authorized representative thereof, with the approval of the board, or the safety director, may order any place of employment closed, or the work therein to cease if it is found that the place of employment is in such an unsafe condition as to constitute an immediate menace to the life or safety of the workmen employed therein. Any such order of closure or for cessation of work shall be expressly limited to only that portion of the plant, installation or facility as is directly and immediately affected by the unsafe condition constituting an immediate menace to the life and safety of the workmen employed therein. Upon issuance of any such order, the board or safety director shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the board. Not more than twenty-four (24) hours after the commencement of the hearing, and without adjournment thereof, the board shall affirm, modify, or set aside the order. Nothing in this section shall empower the safety director to determine that any employment or place of employment is in an unsafe condition on the basis of the number or qualifications of employees operating such employment or place of employment unless a specific rule adopted after public hearing is violated. Provided that for those employments or places of employment for which no code has been adopted and where it is found by the safety director that such place of employment is in such an unsafe condition as to constitute an immediate menace to the life or safety of the workmen there employed, the safety director may

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order that portion of the plant, installation or facility as is directly and immediately affected by such unsafe condition closed for a period not to exceed four (4) hours unless such period be extended by order of the board.

Judicial review.

Section 14. (1) The orders of the board, its rules, findings and decisions, made and entered under the provisions of this act, may be reviewed by the courts within the time and in the manner specified in this section and not otherwise.

(2) Within thirty (30) days after an application for rehearing is denied, or, if the application is granted, within thirty (30) days after rendition of the decision on the rehearing, any party affected thereby may appeal to the district court for the county in which is situated the place of employment complained of for the purpose of having the lawfulness of the original order, or decision, or the order or decision on rehearing inquired into and determined.

(3) To give the district court jurisdiction it is sufficient that a notice be filed with the clerk of the court to the effect that an appeal is taken to the district court from the order or decision of the board and describing the order or decision sufficiently for purposes of identification. The notice shall be signed by the party appealing or his attorney and a copy thereof shall be served by certified mail upon the board. Within ten (10) days after the receipt of the notice, the board shall file with the clerk of court the record of proceedings before the board, including a transcript of all the evidence adduced upon the hearing and any rehearing before the board. The district court, on application for good cause shown, may extend the time within which the board shall file the record, transcript and evidence. The cause shall be tried in the same manner as a civil action, provided that no new or additional evidence may be introduced in the court, but the cause shall be heard on the record to the court as certified to it by the board.

(4) The appeal shall not be extended further than to determine whether or not:

(a) The board acted without or in excess of its powers, or in violation of the law;

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(b) The order or decision was procured by fraud;

(c) The order, decision or rule is unreasonable;

(d) If findings of fact are made, the finding of fact supports the order or decision under review.

(5) An appeal may be taken from the decree of the district court to the supreme court as in all other civil cases.

Review by board.

Section 15. Any party aggrieved directly or indirectly by any final order, decision or rule of the board made or entered pursuant to this act may apply to the board within twenty (20) days after the order of the board for rehearing in respect to any matters determined or covered by such final order, decision or rule, and specified in the application, for hearing within the time and in the manner prescribed in this act.

Application for rehearing to contain.

Section 16. (1) The application for rehearing shall set forth specifically and in full detail the grounds upon which the applicant considers the final order, decision or rule is unjust or unlawful, and every issue to be considered by the board.

(2) The applicant for rehearing shall be deemed to have finally waived all objections, irregularities and illegalities concerning the matters upon which rehearing is sought other than those set forth in the application.

(3) A copy of the application for rehearing shall be served immediately on all adverse parties, who may file an answer thereto within ten (10) days after being served.

(4) If there are no adverse parties, the application may be heard ex parte, or the board may require the application for rehearing to be served on such parties as may be designated by the board.

Board procedure upon rehearing.

Section 17. (1) Upon the filing of the application for rehearing, if the issues raised thereby have theretofore been adequately considered by the board, it may determine the same by confirming, without hearing, its previous determination, or if a rehearing is necessary to determine one or more of the issues raised, the board shall order a rehearing thereon and consider and determine the matters raised by such application.

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(2) Notice of the time and place of the rehearing shall be given to the applicant, the adverse parties and such other persons as the board may order.

(3) If after the rehearing and the consideration of all the facts, including those arising since the making of the order or decision involved, the board shall be of the opinion that all or any part of the original order or decision is in any respect unjust or unwarranted, or should be changed, the board shall abrogate, change or modify the same.

(4) An order or decision made afer the rehearing, abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision but shall not effect any right or the enforcement of any right arising from or by virtue of the original order or decision unless so ordered by the board.

(5) An application for rehearing is considered denied by the board unless it has been acted upon within thirty (30) days from the date of filing; provided that the board may, upon good cause being shown therefor, extend the time within which it may act upon an application for rehearing for not exceeding an additional thirty (30) days.

Inspection by board.

Section 18. (1) The board shall inspect from time to to time all the places of employment defined in the Montana Workmen's Compensation Act as being hazardous and the machinery and appliances therein contained for the purpose of determining whether they conform to law.

(2) A report of such periodic inspection shall be filed in the office of the board and a copy thereof given the employer. Such report shall not be open to public inspection, or made public except on order of the board, or by the board or a member of the board in the course of a hearing or proceeding.

Notice to employer.

Section 19. (1) A workman shall notify his employer of any violation of law or regulation pertaining to safety of places of employment when the violation comes to the knowledge of the workman.

(2) If the employer fails to remedy the violation, the

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workman may complain in writing to the board of the violation.

(3) Upon receiving the complaint the board shall forthwith inquire or make an inspection as to the safety of the place of employment. A copy of the report of inspection shall be given to the complainant.

Safety codes.

Section 20. (1) In addition to such other powers and duties as may be conferred upon it by law, the board shall have the power to promulgate, amend, repeal and enforce rules for the prevention of accidents to be known as "safety codes" in every employment and place of employment, including the repair and maintenance of such places of employment, to render them safe. In the performance of its duties the board may appoint advisory committees to deal with specified industries composed of equal numbers of employers and employees; and others to suggest safety codes or amendments thereto. All such safety codes and rules shall, when adopted, be not inconsistent with the then existing widely accepted codes of such engineering bodies as the American Society of Mechanical Engineers, the American Standards Association, the American Society of Safety Engineers, the United States of America Standards Institute, the National Fire Protection Association, and, in addition, agencies of the federal government with responsibilities for administering worker safety programs, and other accepted codes. Any amendments made to such codes by the board shall be such that when amended such code shall be consistent with the widely accepted safety codes as then existing. All codes and all amendments thereto and repeals thereof shall take affect thirty (30) days after certified copies thereof shall be filed in the office of the secretary of state.

(2) Every code adopted and every amendment or repeal thereof shall be published in such manner as the board may determine. A printed list of all titles of all codes including amendments thereof issued and adopted by the board under the provisions of this act, together with the dates of adoption thereof, shall be published from time to time.

Consultation with board.

Section 21. Any employer may consult with the board for advice and assistance in complying with the provisions of this act or any codes adopted hereunder. In case of

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practical difficulties, the board may grant variations from particular provisions of the code and permit the use of other or different devices or methods; provided, however, that such variations shall be granted only when it is clear that the reasonable safety of the workers in said plant or place of employment is not thereby endangered. In any case where the board shall decline or refuse to grant any request for variations on the ground that the safety of the workers involved would be endangered, the employer may request a rehearing as specified in this act. A properly indexed record of all variations made shall be kept in the office of the board and be open to public inspection.

Safety studies.

Section 22. The board may: (1) Develop greater knowledge and interest in the causes and prevention of industrial accidents, occupational diseases and related subjects through:

(a) Research, conferences, lectures and uses of public communications media,

(b) Collection and dissemination of accident statistics, and

(c) Development of staff competent in the review of safety codes.

(2) Appoint advisors who shall be compensated by the board if necessary, and who shall assist the board in establishing standards of safety. The board may adopt and incorporate in its orders such safety recommendations as it may receive from such advisors.

Violation—penalty.

Section 23. In addition to all other penalties herein provided: Every employer, workman or other person, who, either individually or acting as an officer, agent, or employee of a corporation or other person, violates any safety provision of this act, or who, directly or indirectly, knowingly induces another to do so is guilty of a misdemeanor.

Compliance by contractors.

Section 24. Every contractor performing services for the state of Montana or any political subdivision thereof, shall be required to comply with the safety rules, codes and provisions of this act, as a part of his contract.

Existing buildings.

Section 25. Nothing contained in this act shall prevent the use of existing buildings, structures, and equipment during their lifetime when they are maintained in good

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condition, are properly safeguarded, and conform to the applicable safety standards required by Montana Safety Codes effective prior to the effective date of this act, and provided that replacements and alterations shall conform to all provisions of this act.

Cooperation with state board of health.

Section 26. The board shall report occupational health hazards discovered in its investigations and inspection of places of employment to the state board of health and shall cooperate with the state board of health in carrying out its duties as specified in title 69, chapter 42, R.C.M. 1947.

Saving clause.

Section 27. If any of the provisions of this act are declared or held to be invalid or unconstitutional, such holding shall not affect the validity of the act as a whole, or any part thereof which can be given effect without the part so held to be unconstitutional or invalid.

Section 28. There is added to title 92, chapter 11, R.C.M. 1947, a new section numbered 92-1105.1 which reads as follows:

Increased premium rate.

"92-1105.1. If by reason of poor or careless management, or otherwise, any place of employment be unduly dangerous in comparison with other like places of employment, and the employer operating the same shall not have complied with the safety provisions of the Montana Safety Act, and such employer shall be under compensation plan number 3, the board, in addition to any other penalty provided, shall advance the rate upon such place of employment fifty (50) per cent, and such advanced rate shall continue and be in force until such place of employment shall have ceased to be unduly dangerous in comparison with other like places of employment and such employer shall have obtained a certificate of the board."

Amending clause.

Section 29. Section 92-101, R.C.M. 1947, is amended to read as follows:

Workmen's Compensation Act.

"92-101. **Name of act—what each part to contain.** This act shall be known and may be cited as the Workmen's Compensation Act. Part I (sections 92-101 to 92-843) shall contain those sections which have a general application to the whole of the act, and may be referred to as the 'general provisions'; part II (sections 92-901 to 92-908) shall contain those sections which refer to compensation

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plan number one; part III (sections 92-1001 to 92-1012) shall contain those sections which refer to compensation plan number two: part IV (sections 92-1101 to 92-1123) shall contain those sections which refer to compensation plan number three."

Section 30. Sections 41-1701 through 41-1707, 92-1201 through 92-1210 and 92-1214 through 92-1222, R.C.M. 1947, are repealed. Repealing clause.

Approved: March 13, 1969.

CHAPTER NO. 342

An Act to Amend Section 11-1932, R.C.M. 1947, to Increase the Minimum Compensation of Firemen in Cities of the First and Second Class.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1932, R.C.M. 1947, is amended to read as follows: Amending clause.

"11-1932. **Minimum wages of firemen in cities of first and second class.** From and after July 1, *1969*, there shall be paid to each duly appointed and confirmed member of the fire department of cities or towns of the first class of the state of Montana, a minimum wage for a daily service of eight (8) consecutive hours work of at least *five hundred twenty-five dollars ($525)* per month for the first year of service, and thereafter of at least *five hundred twenty-five dollars ($525)* minimum per month plus one per cent (1%) of said minimum base monthly salary *five hundred twenty-five dollars ($525)* for each additional year of service up to and including the twentieth year of such additional service. *From and after July 1, 1969, there shall be paid to each duly appointed and confirmed member of the fire department of cities of the second class of the state of Montana, a minimum wage for a daily service of eight (8) consecutive hours work, of at least four hundred seventy-five dollars ($475) per month for the first year of service, and thereafter of at least four hundred seventy-five dollars ($475) minimum per month plus one per cent (1%) of said minimum base monthly salary of four hundred seventy-five* Minimum wages of firemen in cities of first and second class.

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dollars ($475) for each additional year of service up to and including the twentieth year of such additional service."

Approved: March 13, 1969.

CHAPTER NO. 343

An Act Amending Section 91-4414, R.C.M. 1947, to Provide Increased Exemptions Under the Inheritance Tax Law.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-4414, R.C.M. 1947, is amended to read as follows:

Exemptions from first $25,000.

"91-4414. **Exemptions from first $25,000.** The following exemptions from the tax are hereby allowed, the exemption allowed to each person, institution, association, corporation and body politic to be taken out of the first twenty-five thousand dollars passing by any such transfer to such person, institution, association, corporation or body politic:

Transfers totally exempt.

(1) **Transfer totally exempt.** All property transferred to the state or any of its institutions, or to municipal corporations within the state for strictly county, city, town, or municipal purposes, shall be exempt. All property transferred to any society, corporation, institution, or association, in trust or otherwise, or to any foundation or trust, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, shall be exempt, if any of the following conditions is present:

(a) The society, corporation, institution, foundation, trust, or association is organized solely for religious, charitable, scientific, literary, or educational purposes under the laws of this state or of the United States;

(b) The property transferred is limited for use within this state;

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(c) In the event that the society, corporation, institution, foundation, trust, or association is organized or existing under the laws of another state of the United States or of a foreign state or country, at the date of the decedent's death any one of the following conditions existed:

(i) The other state, foreign state, or foreign country did not impose a legacy, succession, or death tax of any character in respect to property transferred to a similar society, corporation, institution, foundation, trust, or association organized or existing under the laws of this state;

(ii) The laws of the other state, foreign state, or foreign country contained a reciprocal provision under which property transferred to a similar society, institution, foundation, trust, or association organized or existing under the laws of another state of the United States or foreign state or country was exempt from legacy, succession or death taxes of every character, if the other state of the United States or foreign state or country allowed a similar exemption in respect to property transferred to a similar society, institution, foundation, trust, or association organized or existing under the laws of another state of the United States or foreign state or country;

(iii) The society, corporation, institution, foundation, trust, or association owns or operates a hospital for crippled children within the United States, primarily practicing orthopedics, to which crippled or afflicted children from the state of Montana are, without discrimination, gratuitously admitted and treated and the property transferred is limited for use at such hospital.

Exemptions—when.

(2) **$20,000; *$5,000*; $2,000 exempt, when.** Property of the clear value of twenty thousand dollars ($20,000), transferred to the wife or to the husband of the decedent, *five thousand dollars ($5,000) transferred to each minor lineal issue of the decedent, or any child adopted as such in conformity with law, or any child to whom such decedent for not less than ten (10) years prior to such transfer stood in the mutually acknowledged relation of a parent, provided, however, such relationship began at or before the child's fifteenth (15) birthday, and was continuous for ten (10) years, or any lineal issue of*

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such adopted or mutually acknowledged child, and two thousand dollars *($2,000)* transferred to each of *the lineal issue who have attained majority and to each of* the other persons described in the first subdivision of section 91-4409 shall be exempt. Such exemption to the widow shall include all her statutory dower and other allowances. Any child of the decedent shall be entitled to credit for so much of the tax paid by the widow as applied to any property which shall thereafter be transferred by or from such widow to any such child, provided the widow does not survive said decedent to exceed ten years.

$500 exempt—when.

(3) **$500 exempt, when.** Property of the clear value of five hundred dollars transferred to each of the persons described in the second subdivision of section 91-4409 shall be exempt.

Property without the state exempt—when.

(4) **Property without the state exempt, when.** No tax shall be imposed upon any tangible personal property of a resident decedent when such property is located without this state, and when the transfer of such property is subject to an inheritance or transfer tax in the state where located and which tax has actually been paid, secured or guaranteed, provided such property is not without this state temporarily nor for the sole purpose of deposit or safekeeping; and provided the laws of the state where such property is located allow a like exemption in relation to such property left by a resident of that state and located in this state.''

Approved: March 13, 1969.

CHAPTER NO. 344

An Act to Amend Section 26-104, R.C.M. 1947, by Providing That All Drawings for Elk Permits Under a Special Season Shall Be Held in the City or Town Which Has Suitable Accommodations for the Persons Who Will Attend the Drawing Nearest to the Area to be Hunted But in No Case Shall the Drawing Be Held in a City or Town More Distant Than the County Seat Nearest to the Area to Be Hunted.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-104, R.C.M. 1947, is amended to read as follows: Amending clause.

"26-104. **Powers and duties of commission.** (1) The commission hereby created shall have supervision over all wildlife, fish, game, and nongame birds, and waterfowl, and the game, and fur-bearing animals of the state, and shall possess all powers necessary to fulfill the duties prescribed by law with respect thereto, and to bring actions in the proper courts of this state for the enforcement of the fish and game laws of the state, and the orders, rules and regulations adopted and promulgated by the commission. Powers and duties of commission.

(2) It shall have full power and authority to enforce all the laws of the state of Montana, respecting the protection, preservation and propagation of fish, game, and fur-bearing animals, game and nongame birds, within the state.

(3) It shall have the exclusive power to expend for the protection, preservation and propagation of fish, game, and fur-bearing animals, and game and nongame birds, all funds of the state of Montana collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise, all sums collected ar received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from fines, damages collected for violations of the fish and game laws of this state, from appropriations, or received by the commission from any other sources are hereby appropriated to and placed under control of the Montana fish and game commission.

(4) It shall have power to discharge any appointee or employee of such commission for cause at any time.

(5) It shall have full power and authority to dispose of all property owned by the state of Montana, used for the protection, preservation and propagation of fish, game, and fur-bearing animals, and game and nongame birds, which shall have been found to be of no further value or use to the state, and shall turn over proceeds arising therefrom to the state treasurer to be by him credited to the state fish and game fund.

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(6) It shall have full power and authority to use so much of the fish and game funds of the state as may be necessary for the construction, maintenance, operation, upkeep, and repair of fish hatcheries, game farms or other property or means and appliances for the protection and propagation of fish, game and fur-bearing animals, or game or nongame birds in the state of Montana, and it shall have the authority to appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or fur-bearing animals, or game or nongame birds.

(7) It shall have authority to provide for the importation of game birds and game and fur-bearing animals, and for the protection, propagation, and distribution of such imported or native birds and animals.

(8) It shall have authority to spend so much of the state fish and game funds as may be necessary to introduce and propagate wild waterfowl food and for that purpose may secure expert advice as to what kinds of waterfowl foods are adapted to the climate, soil, and waters of this state.

(9) It shall be its duty to furnish plans for, and to direct and compel the construction and installation and repair of fish ladders upon dams and other obstructions in streams, which, however, shall be installed and maintained at the expense of the owners of said dam or other obstruction.

(10) It shall have the authority to purchase and maintain at the expense of the state fish and game fund suitable fish screens or fish wheels, or other devices, to install in irrigating ditches to prevent fish entering said ditches.

(11) It shall have authority to locate, lay out, construct and maintain nurseries and rearing ponds where fry can be planted, propagated and reared and when of suitable sizes, liberated and distributed in the waters of this state, and may expend from the state fish and game funds such sums as may be necessary for this purpose.

(12) It shall have authority to acquire by gift, purchase, capture, or otherwise, any fish, game, game birds, or animals, for propagation, experimental or scientific purposes.

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(13) It shall have authority to acquire by purchase, condemnation, lease, agreement, gift, or devise, or to acquire easements upon, lands or waters suitable for the purposes hereinafter enumerated, and develop, operate and maintain the same for said purposes: (a) For fish hatcheries, nursery ponds, or game farms; (b) Lands or waters suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection; (c) For public hunting, fishing, or trapping areas to provide places where the public may hunt, trap, or fish in accordance with the provisions of law or the regulations of the commission; (d) To extend and consolidate by exchange lands or waters suitable for the above purposes; (e) To capture, propagate, transport, buy, sell, or exchange any species of game, bird, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes, or to exercise control measures of undesirable species. It shall further have full authority to dispose of lands and waters acquired by it on such terms after such public notice, and without regard to other laws of this state which provide for sale or disposal of state lands, and with or without reservation, as it deems necessary and advisable, provided that notice of sale describing the lands or waters to be disposed of shall be published once a week for three (3) successive weeks in a newspaper with general circulation printed and published in the county wherein the lands or waters are situated, or if no newspaper be printed and published in such county then in any newspaper with general circulation in such county, advertising for cash bids to be presented to the commission or its director within thirty (30) days from the date of the first publication, each bid to be accompanied by a cashiers check or cash deposit in an amount equal to ten per cent (10%) of the amount bid; the highest bid shall be accepted upon payment of the balance due within ten (10) days after mailing notice by registered mail to the highest bidder; if such bidder shall default on payment of the balance due, then the next highest bidders shall be similarly notified in succession until a sale is completed; thereupon deposits shall be returned to the unsuccessful bidders except bidders defaulting after notification; the commission shall reserve the right to reject any or all bids which do not equal or exceed the full market value of such lands and waters as determined by the commission; the commission shall convey such lands and

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waters by deed without covenants of warranty, executed by the governor, or in his absence or disability by the lieutenant governor, attested by the secretary of state, and further countersigned by the chairman of the state fish and game commission, attested by the secretary of the commission, and have the great seal of the state of Montana and the seal of the state fish and game commission thereto affixed, but need not be acknowledged.

(14) It shall have authority to enter into cooperative agreements with educational institutions and state, federal, or other agencies, to promote wildlife research and to train men for wildlife management. It shall have authority to enter into co-operative agreements with federal agencies, municipalities, corporations, organized groups of landowners, associations and individuals for the development of game, bird, fish, or fur-bearing animal management and demonstration projects.

(15) It shall have authority to fix seasons, bag limits, possession limits and season limits; to open or close, shorten or lengthen seasons on any species of game, bird, fish or fur-bearing animal as defined by section 26-201, and to declare areas open to the hunting of deer, antelope and elk by bow and arrow permit holders, and during times when only bow and arrows may be used, to hunt deer, antelope and elk in such areas; it is authorized to declare areas open to deer hunting where shotguns only may be used to hunt or kill deer; and it is authorized to declare areas which may be open to special license holders only, and issue special licenses in a limited number when it shall determine, after proper investigation, that such a season is necessary to assure the maintenance of an adequate supply of game birds, fish or animals, or fur-bearing animals, or to declare such a special season and issue special licenses whenever game birds or animals or fur-bearing animals are causing damage to private property, or when written complaint of such damage has been filed with the state fish and game commission by the owner of such property, and in determining to whom such licenses shall be issued, it may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system; *provided, however, that all drawings for elk permits shall be held in the city or town which has suitable accommodations for*

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the persons who will attend the drawing nearest to the area to be hunted but in no case shall the drawing be held in a city or town more distant than the county seat nearest to the area to be hunted.

(16) It shall have authority to establish and close to hunting, trapping or fishing, game, bird or fish refuges on public lands and, with the consent of the owner, on private lands; and close streams and lakes, or parts thereof, to hunting, trapping or fishing.

(17) It shall have authority to divide the state into fish and game districts, and to create fish, game, or fur-bearing animal districts throughout the state of Montana and to declare closed season for hunting, fishing, or trapping in any of said districts, so created, and later to open said districts to hunting, fishing, or trapping.

(18) It shall have authority to declare a closed season on any species of game, fish, or game birds, or fur-bearing animals threatened with undue depletion, from any cause, and to close any area or district of any stream, public lake, or public water, or portions thereof, to hunting, trapping or fishing, for limited periods of time, when such action is necessary to protect recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations, or to prevent the undue depletion of fish, game and fur-bearing animals and game and nongame birds, and later to open the same upon consent of a majority of the property owners affected.

(19) It shall have authority to establish game refuges for the purpose of providing safe sanctuaries in which game and fur-bearing animals or game or nongame birds may breed and replenish. Such refuges shall be established by order of the commission upon the petition and proper showing that such action is, in judgment of the fish and game commission, necessary and in the best interest of the wildlife within the area, to be included within such refuge, it being the purpose of this provision to establish small refuges rather than large preserves or rather than to close large areas to hunting or trapping.

(20) It shall have authority to designate and protect certain areas as resting, feeding and breeding grounds for migratory birds, in which hunting and molestation shall be forbidden; it being the purpose of this provision

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not to interfere unduly with the hunting of waterfowl, but to provide havens in which they can rest, feed, and breed without molestation.

(21) After petition has been duly filed with the secretary of the commission, praying that an area shall be set aside as a game refuge or haven, the said secretary shall immediately publish a notice in a paper of general circulation in the county in which said area is proposed, that a hearing in connection therewith will be held at such place in said county as may be designated on a day not less than fifteen (15) days from the date of the first publication to be specified in said notice, at which time and place all interested parties shall have the right to appear and be heard.

(22) It shall have authority to establish and maintain an educational and biological department of their work for the collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

(23) It shall not have authority to issue permits to anyone to carry firearms within the confines of the state of Montana, except to regularly appointed officers and/or fish and game wardens who are paid by the state of Montana.

(24) It shall have authority to declare certain fishing waters within the state of Montana closed to fishing by all persons, excepting therefrom that class of persons whose ages are twelve (12) years or less; it being the purpose of this section to provide suitable fishing waters for the exclusive use and enjoyment of juveniles of the age of twelve (12) years or less, at such times and in such areas as the state fish and game commission shall in its discretion deem advisable and consistent with its policies relating to fishing in the state of Montana.

(25) It shall have authority to promulgate and enforce rules and regulations governing uses of lands acquired, or held under easement, by the commission, or lands which it operates under agreement with or in conjunction with a federal or state agency or private owner. Such rules shall be promulgated in the interest of public health, public safety and protection of property in regulating the use of these lands. Provided further all

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lease and easement agreements shall itemize uses as listed in subparagraph 13 of this section.

(26) It shall have authority to promulgate and enforce rules and regulations governing recreational uses of public fishing reservoirs and lakes constructed by the commission or on reservoirs and lakes which it operates under agreement with or in conjunction with a federal or state agency or private owner.

Such rules shall be promulgated in the interest of public health, public safety and protection of property in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, water skiing, surfboarding, picnicking, camping, sanitation and use of firearms on such reservoirs or at designated areas along the shore of such reservoirs. These rules shall be subject to review and approval by the state board of health as to public health and sanitation before becoming effective. Copies of such rules shall show such endorsement."

Approved: March 13, 1969.

CHAPTER NO. 345

An Act Amending Section 89-801, R.C.M. 1947, by Reserving All the Unappropriated Water From Certain Enumerated Streams for Fishing and Wildlife Purposes Except for Future Appropriations for Municipal and Individual Water Supplies.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 89-801, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"89-801. **What waters may be appropriated.** *(1)* The right to the use of the unappropriated water of any river, stream, ravine, coulee, spring, lake, or other natural source of supply may be acquired by appropriation, and an appropriator may impound flood, seepage, and waste waters in a reservoir and thereby appropriate the same. **What waters may be appropriated.**

(2) But the unappropriated waters of the streams and portions of streams hereafter named shall be subject

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to appropriation by the fish and game commission of the state of Montana in such amounts only as may be necessary to maintain stream flows necessary for the preservation of fish and wildlife habitat. Such uses shall have a priority of right over other uses until the district court in which lies the major portions of such stream or streams shall determine that such waters are needed for a use determined by said court to be more beneficial to the public. The unappropriated water of other streams and rivers not named herein may be set aside in the future for appropriation by the fish and game commission upon consideration and recommendation of the water resources board, fish and game commission, state soil conservation committee, the state board of health and approval of the legislature.

(a) Big Spring Creek in Fergus County from its mouth in T17N, R16E, Sec. 26 to the State Fish Hatchery in T14W, R19E, Sec. 5.

(b) Blackfoot River in Missoula and Powell Counties from its mouth in T13N, R18W, Sec. 21 to the mouth of its North Fork in T14N, R12W, Sec. 9.

(c) Flathead River in Flathead County from its mouth in T27N, R20W, Sec. 34 to the Canadian border in T37N, R22W, Sec. 4 & 5, including the section commonly known as the North Fork of the Flathead River.

(d) Gallatin River in Gallatin County from its mouth in T2N, R2E, Sec. 9 to the junction of its East Fork in T2N, R3E, Sec. 27.

(e) Gallatin River in Gallatin County (commonly called the West Gallatin) from the Beck & Border ditch intake in T2S, R2E, Sec. 14, to where it leaves the Yellowstone Park boundary in T9S, R5E, Sec. 18.

(f) Madison River in Madison & Gallatin Counties from its mouth in T2N, R2E, Sec. 17 to Hebgen Dam in T11S, R3E, Sec. 23.

(g) Missouri River in Lewis & Clark, Broadwater and Cascade Counties from its junction with the Smith River in T19N, R2E, Sec. 9 to Toston Dam in T4N, R3E, Sec. 7.

(h) Rock Creek in Granite and Missoula Counties from its mouth in T11N, R17W, Sec. 12 to the junction of its East and West Forks in T6N, R15W, Sec. 31.

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(i) Smith River in Cascade and Meagher Counties from the mouth of Hound Creek in T17N, R3E, Sec. 20 to the Fort Logan Bridge in T11N, R5E, Sec. 31.

(j) Yellowstone River in Stillwater, Sweetgrass and Park Counties from the North-South Carbon-Stillwater County Lines in T3S, R21E, Sec. 10 to where it leaves the Yellowstone Park boundary in T9S, R8E, Sec. 23.

(k) Middle Fork Flathead River in Flathead County from its mouth in T31N, R19W, Sec. 7 to the mouth of Cow Creek in T27N, R12W, (a nonsectional township).

(l) South Fork Flathead River in Flathead and Powell Counties from its mouth at Hungry Horse Reservoir in T26W, R16W, Sec. (unknown), to its source at the junction of Danaher and Youngs Creeks in T20N, R13W, Sec. 36."

Rights heretofore established.

Section 2. Nothing herein contained shall in any way affect or diminish any rights to the use of the waters of such streams or portions of streams heretofore established nor any legal or statutory rights given in connection with such established uses.

Notice of appropriation.

Section 3. The appropriation hereby authorized shall be made by filing a written notice of appropriation in the office of the county clerk and recorder of each county through which flows the river on which the appropriation is made, and by filing a copy of such notice with the director of the Montana water resources board. The notice shall state the quantity of water claimed, measured as provided in Title 89, R.C.M. 1947, the purpose for which it is claimed, the name of the appropriator, and the date of appropriation.

Approved: March 13, 1969.

CHAPTER NO. 346

An Act to Raise the Annual Tax on Gross Earnings of Freight Line Companies to Five and One-Half Per Cent (5½%); Amending Sections 84-4819 and 84-4820, R.C.M. 1947; Providing an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4819, R.C.M. 1947, is amended to read as follows:

Rate of tax—situs.

"84-4819. **Rate of tax—situs.** Every such freight line company shall pay annually for each calendar year a sum in the nature of a tax in the amount of five *and one-half* per cent *(5 1/2%)* of the total gross earnings received from all sources by reason of the use or operation of such cars within this state by such freight line company, which shall be in lieu of all other taxes upon such property of any freight line company so paying the same; provided, for the purpose of taxation, all cars used exclusively within the state or used partially within and partially without the state, are hereby declared to have situs within the state, the value thereof for such taxation to be determined as provided for in this act."

Amending clause.

Section 2. Section 84-4820, R.C.M. 1947, is amended to read as follows:

Railroad companies to withhold tax, file statements and remit tax—receipts—investigations—ad valorem tax basis.

"84-4820. **Railroad companies to withhold tax, file statements annually and remit to state—receipts—investigations—ad valorem tax basis.** Every railraod company so using or leasing said cars, upon payment therefor to such company shall withhold from such payment five *and one-half* per cent *(5 1/2%)* of as much thereof as shall constitute gross earnings of such freight line company within this state. On or before March 1, *1970*, such railroad company shall make and file with the board a consolidated statement in a form to be prescribed by the board, showing the amount of such payments for the next preceding calendar year ending December 31, *1969*, and the amounts so withheld and due the state of Montana. A like report shall be made on or before March 1st of each year thereafter. Such railroad company at the time of filing such statement shall remit the amounts so withheld and due the state of Montana. Upon receipt of such payment, the board shall issue its receipt, in triplicate, one copy of which shall be mailed to such railroad company, one to the freight line company for which such tax is paid, and one to be retained in the office of the state board of equalization. The mailing of such receipt to such freight line company shall constitute notice of the filing of said statement and payment of said tax. If any railroad company

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shall fail to make or file such report, or if the state board of equalization be dissatisfied with any report filed, the board shall have the power to conduct a hearing and investigation for the purpose of ascertaining from whatever sources to which it has access, the gross earnings of such freight line company from the use or operation of such cars within the borders of this state, and in conducting such hearing and investigation, the board shall have power, by subpoena, to require officers, agents, employees or receivers of such railroad company, or of such freight line company, to attend before the state board of equalization, and to bring with him, or them, for inspection by the board, any books, papers, or documents in his or their possession, or under his or their control, in any manner affecting said tax, and to testify under oath concerning any matter relating to the organization or business of such freight line company within this state. Any person who shall fail, neglect or refuse to attend before the board, when subpoenaed so to do, or who shall fail, neglect, or refuse to bring with him and submit for inspection by the board any books, papers, or documents in his possession or under his control affecting the organization or business of such freight line company within this state, or who shall refuse to testify, or refuse to answer any question which may be asked him concerning the organization or business, shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months. Every freight line company, as hereinbefore defined, shall be liable for the payment of the difference, if any, between five *and one-half* per cent *(5 1/2%)* of all gross earnings in this state and the amounts withheld and remitted to the state of Montana by railroads, and shall be liable for the payment of any additional taxes which the board may find due under its authority to raise or lower the rate to conform to the taxes which would be payable if the cars were taxed on an ad valorem basis."

Section 3. This act is effective for all taxable years commencing after December 31, 1968. Effective date.

Approved: March 13, 1969.

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CHAPTER NO. 347

An Act Amending Sections 84-4914 and 84-4924, R.C.M. 1947, Relating to the Filing of Income Tax Returns; Increasing the Interest Rate on Delinquent Income Taxes From Six Percent (6%) Per Annum to Nine Percent (9%) Per Annum, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4914, R.C.M. 1947, is amended to read as follows:

Returns and payment of tax—penalty and interest—refunds—credits.

"84-4914. **Returns and payment of tax—penalty and interest—refunds—credits.** (1) Every single individual and every married individual *not filing a joint return with his or her spouse and* having a gross income for the taxable year of six hundred dollars ($600) or over, and married individuals *not filing separate returns and* having a combined gross income for the taxable year of twelve hundred dollars ($1,200) or over, shall be liable for a return to be filed on such forms and according to such rules and regulations as the board of equalization may prescribe.

(2) In accordance with instructions set forth by the board, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. *If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired, unless the board so consents.*

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including, but not limited to those subject to the provisions of sections 84-4939 and 84-4943, as amended, shall compute the amount of income tax payable and shall at the time of filing the return re-

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quired by this act, pay to the board any balance of income tax remaining unpaid after crediting the amount withheld as provided by section 84-4943, as amended, and/or any payment made by reason of an estimated tax return provided for in section 84-4939, as amended, provided however, the tax so computed is greater by one dollar ($1) than the amount withheld and/or paid by estimated return as provided in this act.

If the amount of tax withheld and/or payment of estimated tax exceeds by more than one dollar ($1) the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the board shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the board within thirty (30) days after notice of the amount of the tax as computed with interest added at the rate of *nine* per centum *(9%)* per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within thirty (30) days after the first notice of the amount is mailed to the taxpayer.

If payment is not made within thirty (30) days or if the understatement is due to negligence on the part of the taxpayer, but without fraud, there shall be added to the amount of the deficiency five per centum (5%) thereof, provided, however, that no deficiency penalty shall be less than two dollars ($2). Interest will be computed at the rate of *nine* per centum *(9%)* per annum or fraction thereof on the additional assessment. Except as otherwise expressly provided in this subdivision, the interest shall in all cases be computed from the date the return and tax was originally due (as distingished from the due date as it may have been extended) to the date of payment.

If the time for filing a return is extended, the taxpayer shall pay in addition, interest thereon at the rate of *nine* per centum *(9%)* per annum from the time when the return was originally required to be filed to the time of payment."

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Amending clause.

Section 2. Section 84-4924, R.C.M. 1947, is amended to read as follows:

Penalties for violations of act.

"84-4924. **Penalties for violations of act.** (1) If any person, without intent to evade any tax imposed by this act, fails to make a return of income at the time required by or under the provisions of this act, there shall be *imposed a minimum penalty of ten dollars ($10) for such failure, or, if a tax in excess of two hundred dollars ($200) is due, a penalty in an* amount equal to five (5) per centum thereof, unless it is shown that the failure was due to reasonable cause and not due to neglect. *If any person, without intent to evade any tax imposed by this act, fails to pay any tax if one is due at the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to ten (10) per centum thereof, but not less than ten dollars ($10), unless it is shown that the failure was due to reasonable cause and not due to neglect.* Interest at the rate of *nine* per centum *(9%)* per annum shall be added to the tax for the entire period it remains unpaid.

(2) If any person fails with intent to evade any tax imposed by this act, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this act there shall be added to the tax an additional amount equal to twenty-five per centum (25%) thereof, but such additional amount shall in no case be less than *twenty-five dollars ($25),* and interest at one (1) per centum for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation or partnership, or any officer or employee of any corporation, or member or employee of any partnership, who, with intent to evade any tax or any requirement of this act or any lawful requirement of the board thereunder, fails to pay the tax, or to make, render, sign or verify any return, or to supply any information, within the time required by or under the provisions of this act, or who, with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars ($1,000), to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also be guilty of a

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misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail not to exceed one (1) year, or both, at the discretion of the court.

(4) The certificate of the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this act, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied."

Section 3. This act is effective as to taxable years ending on and after December 31, 1968. Effective date.

Approved: March 14, 1969.

CHAPTER NO. 348

An Act to Provide for the Numbering of Every Motorboat or Vessel Propelled by Machinery; to Provide for Issuance of Decals; to Provide for a Yearly Renewal of Such Number and Decal; and Amending Sections 69-3503 and 69-3504, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-3503, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-3503. **Operation of unnumbered motorboats or vessels prohibited.** Every motorboat or vessel on the waters of this state propelled by machinery of more than *eight (8)* horsepower shall be numbered No person shall operate or give permission for the operation of any motorboat or vessel on such waters unless the motorboat or vessel is numbered in accordance with this act, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, unless (1) the certificate of number awarded to such motor boat or vessel is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on such motorboat or vessel." Operation of unnumbered motorboats or vessels prohibited.

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Amending clause.

Section 2. Section 69-3504, R.C.M. 1947, is amended to read as follows:

Identification number.

"69-3504. **Identification number.** (a) The owner of each motorboat or vessel requiring numbering by this state shall file an application for number, accompanied by a certificate of tax of personal property showing payment of tax on the motorboat or vessel for the current year, with the board or its designated representative, on forms approved by the board. The application shall be signed by the owner of the motorboat or vessel, and shall be accompanied by a fee of *one ($1)* dollar. Upon receipt of the application in approved form and certificate hereinabove referred to, the board shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat or vessel and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat or vessel, the identification number in such manner as may be prescribed by rules and regulations of the board, in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat or vessel for which issued, whenever such motorboat or vessel is in operation.

(b) The numbering requirements of this act shall apply to motorboats or vessels operated by manufacturers or dealers except that the description of the motorboat or vessel shall be omitted from the certificate of number and such number shall be permitted to be transferred from one vessel to another. In lieu of the descriptive material on said certificate of number the word 'manufacturer' or 'dealer' as appropriate, will appear on said certificate. The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to a vessel to be demonstrated or tested so long as the number is exhibited so as to in all other respects meet the requirements of act relating to display of numbers.

(c) The owner of any motorboat or vessel already covered by a number in full force and effect, which has been awarded to it pursuant to then operative federal

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law or a federally approved numbering system of another state, shall record the number prior to operating the motorboat or vessel on the waters of this state in excess of the ninety day reciprocity period provided for in section 69-3506 (1). Such recordation shall be in the manner and pursuant to the procedure required for the award of number under subsection (a) of this section, except that no additional or substitute number shall be issued.

(d) Should the ownership of a motorboat or vessel change, a new application form with fee shall be filed with the board and a new certificate of number shall be awarded in the same manner as provided for in an original award of number, provided further that the number assigned may be determined by the board.

(e) In the event that an agency of the United States government shall have in force an over-all system of identification numbering for motorboats or vessels within the United States, the numbering system employed pursuant to this act by the board shall be in conformity therewith.

(f) The board may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the board shall be valid as if awarded directly by the board.

(g) All records of the board made or kept pursuant to this act shall be public records; provided that the board shall submit to the registrar of motor vehicles of this state, correct copies of all certificates of registration issued pursuant to this act; and provided further that said registrar shall make said records immediately available to all law enforcement offices of this state.

(h) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period not to exceed *one (1)* year, *and shall be renewed annually* unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the

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same manner provided for in the initial securing of the same. The board shall notify each owner of a registered vessel of expiration of registration a reasonable time prior to expiration of registration.

(i) The board shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

(j) In event of transfer of ownership, the purchaser shall furnish the board notice of the acquisition of all or any part of his interest other than the creation of a security interest in a motorboat or vessel numbered in this state pursuant to subsections (a) and (b) of this section, or of the destruction or abandonment of such motorboat or vessel, within reasonable time thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such motorboat or vessel except that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat or vessel, such transfer shall not terminate the certificate of number.

(k) Any holder of a certificate of number shall notify the board within reasonable time if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the board with his new address. The board may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

(l) No number other than the number awarded to a motorboat or vessel or granted reciprocity pursuant to this act, shall be painted, attached or otherwise displayed on either side of the bow of such motorboat or vessel."

Visual proof of registration.

Section 3. (1) Every Montana boat numbered in accordance with the provisions of section 69-3504 shall be required to display decals thereon as visual proof the boat is currently registered. For this purpose the state board of equalization shall issue a pair of decals with all new certificates of number and renewals thereof.

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(2) The decals shall be of a style and design prescribed by the state board of equalization, and shall be a color differing from the preceding year.

(3) Decals may be displayed by one of the following manners:

(a) One on each side of the bow immediately aft of the registration numbers.

(b) One on windshield and one facing aft on transom or superstructure so the one may be easily visible from forward and the other from aft of the boat.

(c) If windshield curves aft or has side glass facing port and starboard, one may be placed on each side so one may be easily visible from each side.

Section 4. This act is effective on its passage and approval. Effective immediately.

Approved: March 14, 1969.

CHAPTER NO. 349

An Act to Place Control of Refuse Disposal Areas Under the State Department of Health Instead of the State Board of Health; Requiring the State Department of Health to Approve Plans Which an Applicant for a License May Have Drawn; Making it Permissive for the Local Boards of Health to Grant a License; and Amending Sections 69-4004, 69-4005, 69-4007, 69-4008, and 69-4009, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-4004, R.C.M. 1947, is amended to read as follows: Amending clause.

"69-4004. **License required.** Each year each person, partnership, company or corporation desiring to operate a refuse disposal area shall obtain a license for operating same from the local, county or district board of health having jurisdiction. To obtain a license to operate a disposal area, application to the local, county or district board of health having jurisdiction, must be made on forms provided by it. The application shall contain the License required.

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name and residence of the applicant, the location of the proposed disposal area and such other information as the state *department* of health may by regulation require. There shall be paid to the local, county or district board of health with each application for such license or for renewal of such license, an annual license fee of twenty-five dollars ($25). This fee is to be deposited in the general fund of the county in which the refuse disposal area is to be located."

Amending clause.

Section 2. Section 69-4005, R.C.M. 1947, is amended to read as follows:

State department of health to approve disposal area.

"69-4005. **State *department* of health to approve disposal area.** Upon receipt of the application, the local, county or district board of health having jurisdiction shall notify the state *department* of health who will then cause to be made an inspection of the proposed site and determine if the proposed operation can comply with this act and rules and regulations adopted pursuant thereto. *The state department of health shall also inspect and approve plans which have been drawn up by the applicant for the creation of a refuse disposal area.* When the state *department* of health reports favorably upon the application, the local, county or district board of health having jurisdiction *may* issue a license to the applicant. All licenses shall expire one year after issuance, but may be renewed upon payment of an annual fee of twenty-five dollars ($25)."

Amending clause.

Section 3. Section 69-4007, R.C.M. 1947, is amended to read as follows:

Rules and regulations—inspections and recommendations.

"69-4007. **Rules and regulations—inspections and recommendations.** The state *department* of health is authorized to promulgate rules and regulations for the operation of refuse disposal areas. Said regulations shall be prepared and published and shall contain sanitary standards for disposal areas. The state *department* of health shall cause all licensed disposal areas to be inspected and recommended to the local, county or district board of health action which may be taken to enforce the provisions of this act."

Amending clause.

Section 4. Section 69-4008, R.C.M. 1947, is amended to read as follows:

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"69-4008. **Landowner's rights preserved—publicly operated disposal areas.** This act shall not be construed to prohibit any person from disposing of *his own* garbage, rubbish or refuse upon his own land as long as such disposal does not create a nuisance. Any incorporated city, town, rural improvement district or county may establish a disposal area and operate same without paying the annual license fee, but must meet all other requirements of this act."

Landowner's rights preserved—publicly operated disposal areas.

Section 5. Section 69-4009, R.C.M. 1947, is amended to read as follows:

Amending clause.

"69-4009. **Penalty for violations.** Any person violating this act or regulations prescribed by the state *department* of health under this act, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars ($50), nor more than five hundred dollars ($500). Each day upon which a violation of this act occurs shall be considered a separate offense."

Penalty for violations.

Approved: March 14, 1969.

CHAPTER NO. 350

An Act Amending Sections 59-1001 and 59-1002, R.C.M. 1947, to Increase Vacation Leave Benefits for Public Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 59-1001, R.C.M. 1947, is amended to read as follows:

Amending clause.

"59-1001. **Annual vacation leave.** *(1)* Each employee of the state, or any county or city thereof, who shall have been in continuous employment and service of the state, county or city thereof, for a period of one (1) year from the date of employment is entitled to and shall be granted annual vacation leave with full pay *according to the following schedule:*

Annual vacation leave.

(a) from (1) year to ten (10) years of employment at the rate of one and one-quarter (1¼) working days for each month of service;

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(b) from ten (10) years to fifteen (15) years of employment at the rate of one and one-half (1½) working days for each month of service;

(c) from fifteen (15) years to twenty (20) years of employment at the rate of one and three-fourths (1¾) working days for each month of service;

(d) after twenty (20) years of employment at the rate of two (2) working days for each month of service.''

Amending clause.

Section 2. Section 59-1002, R.C.M. 1947, is amended to read as follows:

Accumulation of leave.

"59-1002. **Accumulation of leave.** *Annual* vacation leave may be accumulated to a total not to exceed thirty working days.''

Amending clause.

Section 3. Section 59-1003, R.C.M. 1947, is amended to read as follows:

Separation from service or transfer—cash for unused vacation leave.

"59-1003. **Separation from service or transfer to other department—cash for unused vacation leave.** An employee, who is separated from the service of the state, or any county or city thereof, for reason not reflecting discredit on himself, or any employee transferred to or employed in another division or department of the state, or any county or city thereof, shall be entitled upon the date of such separation from, transfer to or acceptance of new employment within the state, county, or city service, to cash compensation for unused vacation leave.''

Amending clause.

Section 4. Section 59-1004, R.C.M. 1947, is amended to read as follows:

Leave exceeding 15 days—vacation leave does not accrue.

"59-1004. **Leave of absence exceeding fifteen days—vacation leave does not accrue.** Vacation leave shall not accrue during a leave of absence without pay, the duration of which exceeds fifteen 15 days.''

Amending clause.

Section 5. Section 59-1005, R.C.M. 1947, is amended to read as follows:

Absence because of illness not chargeable.

"59-1005. **Absence because of illness not chargeable against vacation.** Absence from employment by reason of illness shall not be chargeable against annual vacation leave.''

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Section 6. Annual leave benefits heretofore accrued shall in no way be affected by the enactment of this act. Benefits not affected.

Approved: March 14, 1969.

CHAPTER NO. 351

An Act to Amend Section 71-509, R.C.M. 1947, to Provide for Assistance Payments in Behalf of Such Needy Dependent Child or Children to Another Person Found Interested in or Concerned With the Welfare of Such Child or Children Because the Recipient Receiving the Assistance Grant in Behalf of the Child or Children Was Dissipating and Failing to Utilize the Assistance Grant for the Needs of the Child or Children or Refuses or Fails to Accept Employment or Training.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 71-509, R.C.M. 1947, is amended to read as follows: Amending clause.

"71-509. **Periodic reconsideration and changes in amount of assistance—appointment of guardian** *or payment to another person.* All assistance grants made under this chapter shall be reconsidered by the county department as frequently as may be required by the rules of the state department. After such further investigation as the county department may deem necessary or the state department may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state or county departments find that the child's circumstances have altered sufficiently to warrant such action, provided, however, that if the county department, after investigation, finds that any recipient is not utilizing the grant adequately for the needs of the child or children or is dissipating such grant, *or refuses or fails to accept employment or training and payments made to him would not be used in the best interests of the child or children;* the county department may request the county attorney to file a petition in the district court for the appointment of such recipient as guardian of the assistance grant in behalf of the child or children. Such petition shall set Reconsideration and changes in assistance—appointment of guardian or payment to another person.

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forth the facts warranting such appointment. Notice of the hearing on such petition shall be served upon the recipient and the county department not less than five 5 days before the date set for such hearing; such petition may be filed with the clerk of the district court and all process issued and served without payment of costs. If upon the hearing of such petition the court is satisfied that it is for the best interests of the child or children, and all parties concerned, that such guardian be appointed, he shall order such appointment, and may require such guardian to render to the court a detailed itemized account of expenditures of such assistance payments at such times as the court may deem advisable.

It is the intention of this act that the guardianship herein provided for shall be a special and limited guardianship solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon the termination of such assistance grant, or sooner on order of the court, upon good cause shown. *In lieu of said guardianship proceedings, payments may be made in behalf of the child or children to another person found by the department to be interested in or concerned with the welfare of such needy child or children in accordance with the rules and regulations established by the state department.*

Providing however, when federal law or regulations permit that any amount in a sum not exceeding one hundred dollars ($100.00) in any one (1) calendar year received by an enrolled member of a recognized Indian tribe as per capita payments or a share in the profits and receipts from tribal lands and interests or tribal enterprises shall not be used to decrease the amount of assistance rceeived under this act. *Before such payments may be paid to such other person, such person shall give a bond, with adequate corporate surety and in form to be approved by the state department of public welfare, running in favor of the needy individual and the state of Montana, conditioned upon the faithful use by such other person of the funds for the welfare of the said needy individual. Such bond shall be in an amount equal to six (6) times the amount of the monthly payment involved.''*

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved: March 14, 1969.

CHAPTER NO. 352

An Act Amending Sections 66-904, 66-905, 66-906, 66-909, 66-910, 66-913, 66-917, 66-920 Through 66-924, R.C.M. 1947, Being Sections of the Montana Dentistry Regulation Act, to Provide Fiscal Year Accounting for the State Board of Dental Examiners, Deleting the Regular Annual Meeting Date, Raising the Dental Examination Fee to Fifty Dollars, Providing for Payment of Fees for Each Subsequent Examination for Dentists and Dental Hygienists; Providing for an Emergency Fund From Annual License Fees; Providing Per Diem and Travel Allowance for Board Members; Increasing Grounds for Revocation or Suspension of Dental License; Raising License Fees of Dental Hygienists; Amending Reciprocity Requirements for Admission of Dental Hygienists; Authorizing the Board to Adopt Rules Governing Auxiliary Personnel.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-904, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-904. **Meetings—notice—quorum—funds—duties—***report.* The board shall meet at least once in each year or oftener at any point in the state of Montana at the call of the president and the secretary-treasurer. Five days' notice must be given by the secretary-treasurer to all board members of the time and place of the meeting of said board. Three members of said board shall constitute a quorum for the transaction of business and its proceedings shall be open to public inspection in all cases of public interest. All moneys received by the board and/or its officers for the board, shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the state board of dental examiners. Meetings, notice, quorum, funds, duties and report.

The secretary-treasurer shall keep a complete record

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of all meetings and proceedings of which records the secretary-treasurer shall be custodian, and he shall keep a true and complete account of all moneys received and disbursements made by the board and by him as such officer. *Before September first of each even numbered year, the board shall submit a written report to the governor providing to him the information required by law.* A copy of such *report* shall be mailed to every registered dentist in the state of Montana."

Amending clause.

Section 2. Section 66-905, R.C.M. 1947, is amended to read as follows:

Dentistry examinations.

"66-905. **Dentistry examinations — application — contents — fees — undergraduate examination — regulations for examinations — notice — scope of examination — dentist certificates — fee — form — retention and inspection of examination papers.** (1) Any person desiring to commence the practice of dentistry in the state of Montana after this act takes effect, shall file in his full name, an application for examination, with the secretary-treasurer of the state board of dental examiners at least twenty (20) days before the date set by the board for the commencement of such examination, and at the time of making such application the applicant shall (a) pay to the secretary-treasurer of the board a fee of *fifty dollars ($50),* (b) shall furnish the board with at least three (3) satisfactory affidavits of good moral character, (c) shall present to said board his diploma or satisfactory evidence of having graduated from a recognized dental school or college, which must have been approved by said board, and (d) shall furnish the board a recent photograph of the applicant.

(2) The board may, in its discretion, permit any dental student who shall have successfully completed his junior year in a recognized dental school, and who files proof satisfactory to the board that he has the preliminary education in this section described, to take written examination in such subjects as he has completed, and all satisfactory grades there secured shall be credited upon the final examination of such student. The board shall require a fee of *fifty dollars ($50)* for such examination, which fee shall apply on the final examination to be taken by such applicant.

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(3) The board shall adopt a uniform code of rules and regulations within the limitations of this act, governing the matter of examinations for license to practice dentistry in the state of Montana, which examinations shall be open to any applicant meeting the requirements of this act, and shall also provide in such code for giving reasonable notice of the time and place where examinations shall be held. *An examination shall be held at least once a year.*

(4) The examination hereinabove referred to shall be practical in character and sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on anatomy, histology, physiology, chemistry, *pharmacology* and thereapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, *orthodontics and endodontics,* and any additional subjects pertaining to dental service. Said written examination may be supplemented by oral examinations. Demonstration of the applicant's skill in operative and prosthetic dentistry shall also be required. Said examination shall be conducted under oath or affirmation before said board, and any member of said board is empowered to administer the necessary oath or affirmation. The state board of dental examiners may recognize a certificate granted by the national board of dental examiners in lieu of or subject to such examinations as the state board may require.

(5) All *applicants* successfully passing such examination shall be registered as licensed dentists in the board register and, upon payment of an additional *fifteen dollars ($15)* shall receive a certificate signed by the president, secretary, *and other members* of said board, in substantially the following form, to wit:

'This is to certify that .....is hereby licensed to practice dentistry in the state of Montana. This certificate must be filed for registration in the office of the county clerk of any county in which the dentist holding such certificate desires to practice, and it is unlawful for him to practice dentistry in any county in which said certificate is not filed for registration.

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Dated at ....., this ..... day of ....., 19.....'

Examination papers of any applicant shall be retained two (2) years by the secretary-treasurer of the board and may then be destroyed, and while so retained shall be open to inspection only by board members, the applicant or by some person appointed by such applicant to examine same, or by a court of competent jurisdiction in a proceeding where the question of the contents of such paper or papers is properly involved.

(6) No person shall be qualified to be licensed to practice dentistry in this state or to have issued to him a certificate to practice dentistry in this state who is not a citizen of the United States of America.

(7) Any applicant failing to pass his first examination before the board may, at any subsequent meeting of said board held for the purpose of examining candidates, if otherwise qualified, take subsequent examinations upon payment of the fee of twenty-five dollars ($25) for each such examination."

Amending clause.

Section 3. Section 66-906, R.C.M. 1947, is amended to read as follows:

Certificates.

"66-906. **Certificate to be registered in counties where practicing — replacing lost certificates — admission of dentists from other states — reciprocity — annual license fee — inactive fee — due date of annual fee — revocation of license for failure to pay.** (1) The certificate in this act provided for shall entitle the holder thereof to practice dentistry in any county in the state of Montana, provided such certificate shall first be filed for registration and registered in the office of the county recorder of the county in which such holder desires to practice, and nothing herein contained shall be construed to permit any holder of any certificate to practice in any county in this state unless such certificate shall have been first registered in the office of the recorder of such county as herein provided; provided further that any such holder of a certificate may practice in more than one or in any number of counties in this state on having such certificate registered in each *of* such counties in which such holder desires to practice. Said board of dental examiners shall, upon satisfactory proof of the loss of

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any such certificate issued under the provisions of this act, issue a duplicate certificate in place thereof, and a fee of *ten dollars ($10)* shall be charged for issuing such certificate.

(2) Any dentist who has been (1) lawfully licensed to practice in another state or territory which has and maintain a standard for the practice of dentistry or dental surgery which in the opinion of the board is equal to that at the time maintained in this state, and (2) who is a graduate of an accredited four year high school or has actual scholastic credits equivalent to a four year high school course and (3) who is a graduate of a recognized dental school or college, and (4) who has been lawfully and continuously engaged in the practice of dentistry for five years or more immediately before filing his application to practice in this state and (5) who shall deposit in person with the secretary-treasurer of the board a duly attested certificate from the examining board of the state or territory in which he is registered and/or licensed, certifying to the fact of his registration and license and of his being a person of good moral character and of professional attainments, may, (6) upon the payment of a fee of fifty dollars ($50.00) and (7) after satisfactory practical examination demonstrating his proficiency, be granted a license to practice dentistry in this state, without being required to take an examination in theory. Provided, however, that no license shall be issued without an examination in theory to any such applicant, unless the state or territory from which such certificate has been granted to such applicant shall have extended a like privilege to engage in the practice of dentistry within its own borders to dentists heretofore and hereafter licensed by this state, and removing to such other state; and provided, further, that the state board of dental examiners of the state of Montana shall have power to enter into reciprocal relations with similar boards of other states whose laws are practically identical with the provisions of this act.

(3) *Every licensed dentist practicing within the state of Montana shall pay in each and every year, on or before the first day of March, to the secretary-treasurer of the board, as a license fee for the year, the sum of ten ($10), provided, however, that the board shall have the power to*

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increase or decrease the annual license fee so as to maintain in the earmarked fund, at all times, an amount to be known as the emergency fund to be used for the purpose of administering, policing and enforcing the provisions of this act, it being the intention hereof that the emergency fund be maintained at an approximate level of two thousand five hundred dollars ($2,500). Notice of such change in the amount of license fees shall be given to each dentist registered in the state by the secretary-treasurer.

(4) In the event any registered dentist absents himself from the state for a period of one or more years, or does not engage in active practice within the state of Montana, he may continue his license in good standing by the payment of *ten* dollars *($10)* each year, or at the discretion of the board, he may be reinstated upon the payment of a fee of *ten* dollars *($10)* for each year's absence. Such annual payments shall be made prior to *March* first in each and every year, and receipt or certificate therefor shall be issued by the secretary-treasurer of the board.

(5) In case of default in payment of annual license fee by any dentist, his license shall be revoked by the board upon thirty days' notice given to the delinquent of the time and place of considering such revocation. A registered letter addressed to the last known address of the party failing to comply with this requirement, as such address appears upon the records of the board, shall constitute sufficient notice of revocation of license, but no license shall be revoked for such nonpayment if the dentist so notified shall pay such license fee plus the late payment penalty of three dollars ($3) before or at the time fixed for consideration of revocation. *The board is hereby authorized to maintain in the name of the state of Montana, a suit to collect all license fees and penalties applicable and to recover from the delinquent dentist the cost of any such action, including reasonable attorneys' fees.*

(6) No license fee or tax shall be imposed on dentists by a municipality or any other subdivision of the state."

Amending clause.

Section 4. Section 66-909, R.C.M. 1947, is amended to read as follows:

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Board members—compensation and expenses—examination meetings—employees—disbursement of funds.

"66-909. **Compensation and expenses allowed board members—limitation on duration of examination meetings—employment of counsel to enforce act—secretary-treasurer's compensation**—*disbursement of funds. Out of the funds derived from the fees and dues herein provided for, each member of the board shall be reimbursed as follows:*

(1) Fifteen dollars ($15) per day for each day traveling to and from any meeting and while in actual attendance at any meeting of the board and for each day actually engaged in the duties of his office.

(2) For such expenses and travel as are authorized under the provisions of sections 59-538 and 59-801, R.C.M. 1947, as the same sections are now or may be amended from time to time.

(3) For first class railroad and pullman fares actually incurred to and from his place of residence to the place of any meeting. Meetings held for the purpose of examining candidates for license to practice dentistry in Montana shall in no case exceed six days. Said board may, if by it deemed advisable, with the consent of the county attorney of any county, employ and compensate special counsel to assist in the prosecution in the courts of such county and in the supreme court of this state, of any offense alleged to have been committed under the provisions of this act in such county. The secretary-treasurer of the board shall receive such reasonable compensation for his services as said board may fix. *All moneys received from any source in excess of expenses and salaries above provided for, shall be held by the secretary-treasurer of the board as a special fund for meeting the expenses of the board, the proper administration of this act and for such educational purposes as may be deemed wise by the board. The state treasurer and state controller, upon the written request of the board, shall set aside in a separate account in the earmarked revenue fund, the emergency moneys provided under section 66-906, R.C.M. 1947, as may be available and requested. Said moneys will be expended only when the board determines that an emergency exists requiring an expenditure therefrom. The state treasurer upon written request of the board, shall draw warrants on such earmarked fund to*

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cover such emergency expenses incurred by the board in administering, policing and enforcing this act.''

Amending clause.

Section 5. Section 66-910, R.C.M. 1947, is amended to read as follows:

Practice of dentistry.

"66-910. **Practice of dentistry defined—persons conducting business through licensed dentist—exceptions.** Any person shall be deemed to be practicing dentistry within the meaning of this act who performs, or attempts, or advertises to perform, or causes to be performed by the patient or any other person, or instructs in the performance of, any dental operations or oral surgery or dental service of any kind gratuitously or for a salary, fee, money, or other remuneration paid, or to be paid, directly or indirectly, to himself or to any other person or agency; or who is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed; or who directly or indirectly, by any means or method, furnishes, supplies, constructs, reproduces or repairs any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth; or who places such appliance or structure in the human mouth or attempts to adjust the same; or who advertises to the public, by any method, to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth; or who diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of human teeth or jaws, or adjacent structure; or who extracts or attempts to extract human teeth, or corrects or attempts or professes to correct malpositions of teeth or of the jaw; or who gives, or professes to give interpretations or readings of dental roentgenograms; or who administers an anesthetic of any nature in connection with a dental operation; or who uses the words 'dentist,' 'dental surgeon,' 'oral surgeon,' the letters 'D.D.S.,' 'D.M.D.,' or any other words, letters, title, or descriptive matter which in any way represent him as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury or physical condition of human teeth or jaws, or adjacent structures; or who states, or advertises or permits to be stated or advertised, by sign, card, circular, handbill,

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newspaper, radio, or otherwise, that he can perform or will attempt to perform dental operations or render a diagnosis in connection therewith or who engages in any of the practices included in the curricula of recognized dental colleges. Provided, however, that a dental laboratory or dental technician shall not be deemed to be practicing dentistry within the meaning of this act when engaged in the construction, making, alteration or repairing of bridges, crowns, dentures, or other prosthetic appliances or surgical appliances or orthodontic appliances if the casts or models or impressions upon which such work is constructed shall have been made by a regularly licensed and practicing dentist and all such crowns, bridges, dentures or prosthetic appliances or surgical appliances or orthodontic appliances shall be returned to the dentist upon whose order the work was constructed. Any licensed dentist who employs or engages the services of any person, firm, or corporation to construct, reproduce, make, alter or repair bridges, crowns, dentures, or other prosthetic appliances or surgical appliances or orthodontic appliances, shall furnish such person, firm or corporation with a written work authorization on forms prescribed by the state board of dental examiners, which shall contain (a) the name and address of the person, firm or corporation to which the work authorization is directed, (b) the patient's name or identification number, but in case only a number is used the patient's name shall be written upon the duplicate copy of the work authorization retained by the dentist, (c) the date on which the work authorization was written, (d) a description of the work to be done, including diagrams, if necessary, (e) a specification of the type and quality of the materials to be used, (f) the signature of the dentist and the number of his license to practice dentistry. The person, firm or corporation receiving a work authorization from a licensed dentist shall retain the original work outhorization and the dentist shall retain the duplicate copy thereof for inspection at any reasonable time by the state board of dental examiners or its authorized agents for a period of two (2) years from date of issuance.

Nothing in this act contained applies to a legally qualified physician or surgeon or to a dental surgeon of the United States army, navy, public health service, or veterans' bureau, or to a legal practitoner of another state

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making a clinical demonstration before a dental society, convention or association of dentists, or to a *duly licensed dental hygienist performing any act defined and authorized under the provisions of section 66-921, R.C.M. 1947.*

No person, firm or corporation engaged in the business of constructing, altering or repairing bridges, crowns, dentures or other prosthetic appliances or surgical appliances or orthodontic appliances shall advertise such services, technique or materials to the general public by means of advertistments in public newspapers, magazines or by radio or television display advertisements or by any other means excepting advertisements in professional or trade papers, trade journals, trade directories, trade periodicals, trade magazines and listings in business and telephone directories limited to name, address and telephone number, which shall not occupy more than the number of lines necessary to disclose such information, nor shall any person, firm or corporation so engaged in any way directly solicit the patronage of the general public."

Amending clause.

Section 6. Section 66-913, R.C.M. 1947, is amended to read as follows:

Revocation or suspension of license.

"66-913. **Revocation or suspension of license—grounds —conviction of crime—renting or loaning license—unprofessional conduct—proceedings for revocation or suspension.** Any dentist may have his license revoked or suspended by the state board of dental examiners for any of the following reasons:

1. Conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

2. For renting or loaning or attempting to rent or loan to any person his license for the practice of dentistry or his diploma of graduation from a dental college, school or course to be used as a license or diploma of such person.

3. *For permitting any dental hygienist, under his personal supervision to do any act or perform any operation other than those defined and authorized under section 66-921, R.C.M. 1947.*

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4. For permitting unlicensed auxiliary personnel to perform duties or tasks other than those which may be specifically authorized from time to time by the state board of dental examiners.

5. For unprofessional conduct as herein defined or for gross ignorance or inefficiency in his profession, or for habitual intemperance or gross immorality.

Unprofessional conduct shall consist of employing what are known as 'cappers' or 'steerers' to obtain business; the obtaining of any fee by fraud or misrepresentation; willfully betraying professional secrets; employing, directly or indirectly, any student or any suspended or unlicensed dentist to perform any operations in the practice of dentistry or to treat lesions of the human teeth or jaws or correct malimposed formations thereof; making use of any advertising statements of a character tending to deceive or mislead the public; advertising prices; advertising professional superiority, or performance of professional services in a superior manner; advertising by means of a large display, glaring light sign, or other sign or device containing as a part thereof the representation of a tooth, teeth, bridge work, or any portion of the human head; advertising over *television or* radio in any manner; employing or making use of advertising solicitors or publicity press agents; advertising any free dental work or free examination; advertising to guarantee any dental service or to perform any dental operation painlessly; advertising by sign or printed advertisements under the name of a corporation, company, association or trade name.

Proceedings under this section may be taken by the board upon its initial motion, for matters within its knowledge, or may be taken upon the information of another; provided, however, that if the informant is a member of the board, the other members of said board shall constitute the board for the purpose of determining the truth of the charge or accusation. All accusations must be in writing, verified by some party familiar with the facts therein charged, and three copies thereof must be filed with the secretary of the board. Upon receiving the accusation the board shall, if it deem the accusation sufficient, make an order setting the same for hearing, and requiring the accused to appear and answer such charge

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or accusation at said hearing, at a specified time and place, and the secretary shall cause a true copy of said order of the board and of the accusation or charge to be served upon the accused at least ten (10) days before the day appointed in the order for said hearing.

The process issued by the board, or any member thereof, shall extend to all parts of the state, and may be served by any persons authorized to serve process of courts of record, or by any person designated for that purpose by the board or any member thereof. Proof of service shall be made as provided in civil cases in courts of record and shall be filed with the secretary of the board. The person executing any such process shall receive such compensation as may be allowed by the board, not to exceed the fees now prescribed by law for similar service, and such fees shall be paid in the same manner as provided herein for the fees of witnesses. The accused must appear at the time appointed in the order and answer the charges and make his defense to the same, unless for sufficient cause, upon the accused's application or the board's order, the board assign another day for that purpose.

If the accused does not appear the board may proceed and determine the accusation in his absence. If the accused confess the accusation or refuse to answer the charge, or upon the hearing thereof, the board shall find the charge or accusation (whether one or more) true, it may proceed to an order either revoking the license of the accused or suspending it for a fixed period. The board and the accused may have the benefit of counsel, and the board shall have the power to administer oaths, take depositions of witnesses in the manner provided by law in civil cases, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. Such subpoena shall be issued over the signature of the secretary of the board and the seal thereof, and in the name of the state of Montana.

Upon revocation or suspension of any license the fact shall be noted upon the records of the state board of dental examiners of the state of Montana and the license shall be marked as canceled upon the date of its revocation, or suspended, as the case may be. The secretary

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of the board shall, upon order of suspension or revocation being entered, transmit to the county recorder wherein the license of the licensee affected by such judgment is registered and recorded, a copy of such order, certified to as such by said secretary of the board, for record, and the same shall be registered in the same manner and in the same book wherein is kept the registration of the certificate to practice dentistry."

Amending clause.

Section 7. Section 66-917, R.C.M. 1947, is amended to read as follows:

Publishing professional cards.

"66-917. **Publishing professional cards not unprofessional conduct, when.** It shall not be considered unprofessional for a dentist to place in any newspaper or publication, subject to the limitations stated hereafter, a card bearing his name only, together with his degree, or the word 'dentist,' and giving office location, hours and telephone numbers and if he limits his practice to a specialty he may so announce it, or he may announce his absence from, or his return to, practice in the same manner. Such professional card or announcement shall not be run in any newspaper or publication in excess of five (5) issues following the opening of his office by a newly licensed dentist, or following the change of location of a dentist's office, or after limiting his practice to a specialty, or after the absenting of a dentist from his practice, or following his return to the practice of dentistry. The publishing of professional cards or announcements in violation of these limitations shall be considered unprofessional. Such card or announcement shall not be more than *two* columns in width, or more than three inches in depth."

Amending clause.

Section 8. Section 66-920, R.C.M. 1947, is amended to read as follows:

Affiliation with national association.

66-920. **Affiliation with national association authorized—delegate—expenses allowed.** The said board of dental examiners may affiliate with the national association of dental examiners as an active member, and may pay regular annual dues to said association, and may send a delegate to the meetings of such association, which delegate shall *be reimbursed as follows:*

(1) Fifteen dollars ($15) per day for each day traveling to and from any meeting and while in actual attendance at any meeting.

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(2) For such expenses and travel as are authorized under the provisions of section 59-538 and 59-801, R.C.M. 1947.

(3) For first class railroad and pullman fares actually incurred to and from his place of residence to the place of any meeting."

Amending clause.

Section 9. Section 66-921, R.C.M. 1947, is amended to read as follows:

Dental hygienists.

"66-921. *Dental hygiene defined*—**dental hygienists—qualifications — examination — fee — registration — certificate form—re-examination—powers and limitations—revocation of license.** (1) *Said board may also issue to qualified applicants licenses for the practice of dental hygiene to be known as dental hygienists. The practice of dental hygiene is the doing by one person, for a direct or indirect consideration, with respect to the teeth of another person, or any act or service, educational, therapeutic, prophylactic or preventive in nature, as the state board of dental examiners may from time to time, in writing, define and authorize; provided, however, that nothing in this section shall be construed to allow the board or any licensed dentist to delegate any of the following duties: (a) Diagnosis, treatment planning and prescription; (b) Surgical procedures on hard and soft tissues; (c) All restorative, prosthetic, orthodontic, and other procedures which require the knowledge and skill of the dentist; (d) Prescription for drugs, medications and/or work authorizations.*

Every candidate for examination as a dental hygienist shall file in his full name an application for examination with the secretary-treasurer of the board at least twenty (20) days before the date set by the board for the commencement of such examination and at the time of making such application shall pay the secretary-treasurer of the board a fee of twenty dollars ($20). Such applicant shall likewise furnish satisfactory proof that he is of good moral character and has earned a diploma or certificate from a school of dental hygiene offering a course of study recognized and approved by the board of dental examiners.

The board shall adopt a uniform code of rules and regulations within the limitations of this act, governing

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the matter of examinations for license to practice dental hygiene in the state of Montana, which examinations shall be open to any applicant meeting the requirements of this act, and shall also provide in such code for giving reasonable notice of the time and place where examinations shall be held.

The state board of dental examiners may recognize a certificate granted by the national board of dental hygiene examiners in lieu of such examination as the board may, from time to time, require.

Any dental hygienist who can produce satisfactory evidence that he has been employed as a dental hygienist in the office of a regularly licensed dentist in the state of Montana for one (1) or more years prior to the passage of this act, may, upon payment of a fee of twenty dollars ($20), be granted a certificate to practice by the state dental board. Such certificate must be secured before such person may continue practice as a hygienist.

(2) Every applicant who shall successfully pass such examination as may be prescribed by the board shall, *upon the payment of a fee of fifteen dollars ($15),* be granted a license as a dental hygienist, and shall be registered as such in a record kept by the secretary of the state dental board, and shall receive a certificate, signed by the president and secretary-treasurer *and other members* of the board, in substantially the following form, to wit:

'This is to certify that ..... is hereby licensed as a dental hygienist in the state of Montana. This certificate must be filed for registration in the office of the county clerk of any county in which the holder of this certificate desires to practice, and it shall be unlawful for him to practice in any county in which said certificate is not filed for registration.

Dated at ....., this ..... day of ....., 19 ..... .'

(3) *Such licensed dental hygienist may practice in the office of a legally licensed and actively practicing dentist or in any public or private institution or under a board of health or in any public clinic authorized by the board but shall not practice except under the direct personal supervision of a licensed dentist except the dental*

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hygienist may give instruction in dental hygiene without the supervision of a licensed dentist in any public or private institution or under a board of health or in any public clinic authorized by the board.

(4) Any applicant failing to pass his first examination before such board may, at any subsequent meeting of the board held for the purpose of examining candidates, if otherwise qualified, take subsequent examinations upon payment of the fee of twenty dollars ($20) for each such examination."

Amending clause.

Section 10. Section 66-922, R.C.M. 1947, is amended to read as follows:

Licensing of dental hygienists.

"66-922. **Annual license fee for dental hygienists—revocation of license.** Before the first day of *March* in each year every licensed dental hygienist shall pay to the board of dental examiners a license fee of *three dollars ($3)* and in default of such payment, the board may after hearing and upon thirty (30) days' notice revoke the license of the hygienist in default; but the payment of such fee on or before the time of hearing, with such additional sum as shall be fixed by the board, not exceeding *three dollars ($3)*, shall excuse the default. The board may collect such fee by suit.

The board may likewise revoke or suspend the license of any dental hygienist for violating any of the provisions of this act."

Amending clause.

Section 11. Section 66-923, R.C.M. 1947, is amended to read as follows.

Admission from other states.

"66-923. **Admission of dental hygienists from other states—unlawful to practice without license—licenses for practicing hygienists**—*reciprocity. (1) Any dental hygienist:*

(a) who has been lawfully licensed to practice in another state or territory which has and maintains a standard for the practice of dental hygiene which, in the opinion of the board, is equal to that at the time maintained in this state.

(b) who has been lawfully and continuously engaged in the practice of dental hygiene for a period of one (1)

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year or more immediately before filing his application to practice in this state, and

(c) who shall deposit in person with the secretary-treasurer of the board a duly attested certificate from the examining board of the state or territory in which he is registered and/or licensed, certifying to the fact of his registration and license and of his being a person of good moral character and of professional attainments; may upon the payment of a fee of twenty dollars ($20) and after satisfactory practical examination demonstrating his proficiency, be granted a license to practice dental hygiene in this state without being required to take an examination in theory; except as provided in subparagraph (2) below, no license shall be issued without an examination in theory to any such applicant, unless the state or territory from which such certificate has been granted shall have extended a like privilege to engage in the practice of dental hygiene within its own borders to dental hygienists heretofore and hereafter licensed by this state, and removed to such other state.

(2) Any dental hygienist who has been lawfully licensed to practice in another state or territory not having reciprocity with the state of Montana but which has and maintains a standard for the practice of dental hygiene which, in the opinion of the board is equal to that at the time maintained in this state, and who shall deposit in person with the secretary-treasurer of the board, a duly attested certificate from the examining board of the state or territory in which he is registered and/or licensed, certifying to the fact of his registration and license and his being a person of good moral character and of professional attainment may, upon the payment of a fee of twenty dollars ($20), be granted a temporary license authorizing such person to practice dental hygiene from the time of the granting of such license until the time of the next regular examination for dental hygiene set by the board. No additional fee for such examination shall be charged.

(3) Except as provided in subsections (1) and (2) of this section no person shall engage in the practice of dental hygiene or practice as a dental hygienist in this state until such person has passed an examination given or approved by the board under such rules and regulations

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as it may deem fit and proper to formulate and has been issued a license therefore by the board.

(4) The board shall have and is hereby granted the power and authority to enter into reciprocity agreements with other states or territories, the standards of which as to the practice of dental hygiene, are, in the opinion of the board, equal to those of this state.

(5) Nothing contained in this act relating to the practice of dental hygiene shall apply to the practice thereof by a duly licensed dentist or a duly licensed physician and surgeon in Montana.''

Section 12. There is added to title 66, chapter 9, R.C.M. 1947, a new section numbered 66-923.1 which reads as follows:

Auxiliary personnel—employment, duties and limitations.

"66-923.1. **Auxiliary personnel — employment, duties and limitations.** The board shall, within the limitations of this act, adopt rules and regulations, which define the qualifactions and outline the tasks of any unlicensed auxiliary personnel to be employed by any licensed dentist in his office except that nothing herein shall be construed to allow the board by rule or regulation to provide for delegation by a licensed dentist to any such auxiliary personnel, any of the duties prohibited to dental hygienists under section 66-921 (1), R.C.M. 1947, or a prophylaxis. The performance of intraoral tasks by dental auxiliaries, as permitted by the board rules and regulations, shall be under the direct supervision of the licensed dentist employing such personnel.''

Amending clause.

Section 13. Section 66-924, R.C.M. 1947, is amended to read as follows:

Recognition of dental schools.

"66-924. **Recognition of dental schools.** In determining what shall constitute a recognized dental college or school and/or a recognized school of dental hygiene, the board shall be guided by the standards, canons and practices required for such recognition by the *council on dental education of the American Dental Association.''*

Approved: March 14, 1969.

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CHAPTER NO. 353

An Act to Amend Section 66-2508, R.C.M. 1947, Pertaining to Fee for Annual Extension of Licenses of Physical Therapists; Providing for an Increase in Such Fee From Two Dollars ($2) to Five Dollars ($5).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 66-2508, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2508. **Annual extension of license.** Every licensed physical therapist shall, during January, 1962, and during every January thereafter, apply to the board for an extension of his license and pay a fee of *five dollars ($5).* A license that is not so extended, in the first instance before April 1, 1962, and thereafter before April, every year, shall automatically lapse. The board may in its discretion revive and extend a lapsed license on the payment of all past unpaid extension fees." Annual extension of license.

Approved: March 14, 1969.

CHAPTER NO. 354

An Act to Amend Section 53-118, R.C.M. 1947, Relating to Application for Motor Vehicle Dealer's License.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-118, R.C.M. 1947, is amended to read as follows: Amending clause.

"53-118. **Application for dealer's license.** Every person, firm, corporation, or association who, for commission or profit, engages in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, used motor vehicles, trailers, *(except trailers having an unladen weight of less than five hundred (500) pounds)* or semitrailers and qualifies under subparagraph (f) of this section, shall cause to be filed, by mail or otherwise, in the office of the registrar of motor vehicles, a verified application for licensing as a dealer on a blank to be furnished by the registrar of motor vehicles for that purpose, and containing the information therein required. Application for dealer's license.

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The application and all of the information therein contained shall be verified by the *Montana highway patrol.* Each application must be accompanied by the license fee hereinafter named. Dealer's license must be renewed and paid for annually, and an application for relicensing must be filed not later than January first of each year. To qualify for licensing and the issuance and use of 'D,' 'UD,' or 'DTR' plates, as hereinafter provided, the applicant must furnish the following information and qualify under the following provisions:

(a) The name under which the business is conducted;

(b) Location of premises (street, address, city, county and state) where records are kept, sales are made and stock of motor vehicles displayed;

(c) Name and address of all owners or persons having an interest in the business; provided, however, that in the case of a corporation, the names and addresses of the president and secretary thereof will be sufficient;

(d) Name and make of all vehicles handled, if factory franchised or selling under a written agreement with a manufacturer, importer or distributor;

(e) Whether or not used vehicles are handled exclusively;

(f) A certificate to the effect that the applicant is a bona fide dealer in motor vehicles, trailers or semitrailers; and that the applicant if a dealer in new motor vehicles, is recognized by a manufacturer, importer or distributor as a dealer in particular makes of new motor vehicles.

(g) Other information required by the registrar to efficiently administer this law.

The applicant for a dealer's license shall also file with his application a good and sufficient bond in the sum of *five* thousand dollars *($5,000)*, and the bond shall be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds shall run to the state of Montana and shall be approved by the registrar of motor vehicles and filed in his office *and shall be renewed annually.*

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The registrar of motor vehicles shall not register or license as a dealer any applicant for the sale of new motor vehicles at retail unless such applicant owns, leases or rents a permanent building wherein he shall conduct his business and who has a dealers franchise from a manufacturer of motor vehicles. A private residence, tent, or temporary building is not a sufficiently permanent place of business within the meaning of this section. The registrar of motor vehicles shall not register or license any applicant as a dealer in used cars unless such applicant furnishes sufficient evidence to the registrar that he has a building or lot to provide display of merchandise, a sign indicating the firm name and headquarters as the principal place of the business.

Upon making such application, the applicant shall pay to the registrar of motor vehicles, in addition to the fees required of dealers under the provisions of section 53-122, a fee of five dollars ($5). Upon receipt of the application, fee and bond, as provided above, the registrar of motor vehicles shall examine the application, and may, prior to issuing a license, make individual investigation of the truth of the statements contained in the application. If the registrar of motor vehicles is satisfied that the applicant qualifies for the issuance of a dealer's license under the provisions of this act, he may thereupon issue the same.

Every dealer licensed under this section shall keep a book or record of the purchase, sale or exchange or receipt for the purpose of sale, of any used vehicle, a description of such vehicles, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom such vehicle was purchased or received, or to whom it was sold or delivered, as the case may be. Such description in the case of motor vehicles shall also include the engine number, if any, the maker's number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon, and shall include a statement that a number has been obliterated, defaced or changed, if such is the fact. In the case of a trailer or semitrailer, the record shall include the manufacturer's number and such other numbers or identification marks as may be thereon. He shall also have in his possession a duly assigned certificate of title from the owner of said motor vehicle in accordance with the provisions of another section of this act,

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from the time when the motor vehicle is delivered to him until it has been disposed of by him.

Upon the licensing of a dealer as a new motor vehicle dealer, used motor vehicle dealer, or trailer or semitrailer dealer, the registrar of motor vehicles shall assign to such dealer a distinctive serial license number as a dealer and furnish every qualified dealer in motor vehicles with not less than two (2) sets of number plates, and as many more as the fee the dealer pays entitles the dealer to, which number plates shall be similar to number plates furnished to owners of motor vehicles but shall bear thereon, in addition to the serial number assigned such dealer, the letter 'D' if the dealer sells new motor vehicles (including trucks and trailers) or new and used motor vehicles (including trucks and trailers), the letters 'UD' if the dealer sells used motor vehicles (including trucks and trailers) only; and the letters 'DTR' if the dealer sells trailers and/or semitrailers (new or used) only. Only new motor vehicle dealers' license plates bearing the letter 'D' shall be assigned if both new and used motor vehicles (including trucks and trailers) are sold, and only one license fee shall be required of any one dealer. *The registrar of motor vehicles shall cause to be placed on each set of license plates issued to a dealer, a serial number assigned to each dealer and the actual number of license plates issued to each dealer. The number of the dealer shall follow the prefix of the county, and the number of plates issued the dealer shall follow the prefix of the county and the number of the dealer, the dealer's number to be separated from the county prefix by a dash, and the number of plates issued to a dealer to be separated from the dealer's number by a dash, as follows: Dealer number 4 in Lewis and Clark County would be numbered 5-4, and if the dealer were issued three sets of plates, they would be numbered consecutively as follows, 5-4-1, 5-4-2, and 5-4-3.* Dealers properly licensed under this section are authorized to use and display, dealer's license plates on any motor vehicle held for sale or used principally in the conduct of the dealer's business in selling or demonstrating motor vehicles. No dealer's license plate shall be used or displayed on vehicles normally used for hire, *lease or rental* or for purposes not incident to the business of a motor vehicle dealer. If it shall appear to the satisfaction of the registrar of motor vehicles, from

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information furnished to him by the sheriff or any other law enforcement officer, that any such dealer has been improperly licensed, has used the dealer's license in a manner other than the one permitted above, or is not qualified as a dealer under the requirements of this section, the registrar of motor vehicles may revoke such dealer's license. No person, firm, corporation or association shall, for commission or profit, engage in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, trailers or semitrailers unless duly licensed in compliance with this section *(except trailers having an unladen weight of less than five hundred (500) pounds).*

Any person violating the provisions of this section shall be guilty of a misdemeanor and subject to a fine of not less than *two hundred and fifty ($250)* dollars and not more than *five* hundred *($500)* dollars. For the purposes hereof, every sale of a motor vehicle in violation of the provisions of this section shall be deemed a separate offense.''

Approved: March 14, 1969.

CHAPTER NO. 355

An Act to Amend Section 84-1801.1, R.C.M. 1947, Increasing the Gasoline License Tax from Six and One-Half Cents (6½c) to Seven Cents (7c) Per Gallon, Effective for a Period Ending June 30, 1971; Providing for Dealer Allowance for Evaporation and Other Loss; Amending Section 84-1840, R.C.M. 1947, Relating to Disposition of Funds Collected Under the Gasoline License Tax Providing That Up to Three Million Dollars ($3,000,000) of the State Highway Account in the Earmarked Revenue Fund Shall Be Expended by the State Highway Commission for the Construction, Reconstruction, Maintenance or Repair of Roads, Streets and Alleys in Counties and Incorporated Cities and Towns in Each Fiscal Year, and Providing That Such Funds May Be Disbursed Only for Work Designed and Supervised by the State Highway Department; Repealing All Acts and Parts of Acts

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in Conflict Herewith, and Providing a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1801.1, R.C.M. 1947, is amended to read as follows:

Gasoline license tax—amount—evaporation and other loss.

"84-1801.1. **Gasoline license tax—amount—evaporation and other loss.** *(a)* Beginning July 1, *1969*, every dealer (as defined in section 84-1801) shall, when engaged in the business of producing, refining, manufacturing or compounding gasoline for sale or use, or importing gasoline into the state of Montana or purchasing gasoline within the state of Montana for sale or use, pay to the state board of equalization a license tax for the privilege of engaging in and carrying on such business in this state, in an amount equal to *seven cents (7c)* for each gallon of gasoline (as defined in section 84-1801, subsections 1 and 8) refined, manufactured, produced or impounded by such dealer, and distributed, used or sold by him in this state, or shipped, transported or imported by such dealer into and distributed, used or sold by him within this state, after it has arrived in and is brought to rest within this state, whether sold in the original packages or in broken packages; provided that all gasoline delivered by any dealer to any of his own service stations in this state shall be deemed to have been sold, and shall be treated and considered as sold, in computing such license tax, in the same manner as though the same had been sold to other persons. In making the computation of license tax due and in making payment thereof, two per cent (2%) of the first six cents (6c) of such tax shall be deducted by the dealer as an allowance for evaporation and other loss of gasoline handled by such dealer. No gasoline used or sold by such dealer, which was purchased by him from a dealer who has paid the tax thereon, shall be included or considered in determining the amount of such license tax to be paid by such dealer, and no gasoline exported by such dealer out of the state of Montana shall be included in the computation of any dealer's license tax herein provided for.

(b) Effective July 1, 1971, the gasoline tax rate in section 1 (a) shall revert to six and one-half cents (6 1/2c) per gallon."

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Section 2. Section 84-1840, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1840. **Disposition of funds.** All taxes, interest and penalties collected under this act shall be turned over promptly to the state treasurer and the state treasurer shall place the same in the earmarked revenue fund to the credit of the state highway department. Disposition of funds.

(1) *The lesser of the following amounts from* funds collected under this act shall be allocated each fiscal year to the counties and incorporated cities and towns in Montana for construction, reconstruction, *maintenance* and repair of rural roads, and city or town streets and alleys, as provided in subsections (a) and (b) hereof.

(i) Three million dollars ($3,000,000) or

(ii) Sixty-six per cent (66%) of the amount of state matching funds saved under the provisions of clause B of section 120 (a) of Title 23, United States Code, but not less than one million five hundred thousand dollars ($1,500,000).

In any fiscal year when the amount of funds allocated to the counties and incorporated cities and towns under subsection (i) (ii) does not equal three million dollars ($3,000,000) the difference between the three million dollars ($3,000,000) and the funds allocated for that year shall carry forward and be allocated to the counties and incorporated cities and towns in subsequent fiscal years.

(a) *Forty per cent (40%)* shall be divided among the various counties in the following manner:

(i) Forty per centum (40%) in the ratio that the rural road mileage in each county exclusive of the federal-aid interstate system and the federal-aid primary system bears to the total rural road mileage in the state exclusive of the federal-aid interstate system and the federal-aid primary system.

(ii) Forty per centum (40%) in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns.

(iii) Twenty per centum (20%) in the ratio that the

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land area of each county bears to the total land area of the state.

(b) *Sixty per cent (60%)* shall be divided among the incorporated cities and towns in the following manner:

(i) Fifty per cent (50%) of the sum shall be divided in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana.

(ii) Fifty per cent (50%) shall be divided in the ratio that the city or town street and alley mileage, *exclusive of the federal-aid interstate system and the federal-aid primary system,* within corporate limits bears to the total street and alley mileage, *exclusive of the federal-aid interstate system and federal-aid primary system,* within the corporate limits of all cities and towns in Montana.

(2) All funds hereby allocated to counties, cities and towns shall be used exclusively for the construction, reconstruction, *maintenance* and repair of rural roads, city or town streets and alleys, or for the share which such city, town or county might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets which are part of the federal-aid primary or secondary highway system, or urban extensions thereto.

(3) Upon receipt of the allocation provided herein, the county commissioners, in the case of counties, or the governing body, in the case of incorporated cities or towns, shall propose the expenditure of said funds to the state highway commission. The commission may consult with the county commissioners or the governing body proposing expenditures before approving the same provided, however, that before any contract for the expenditure of funds provided herein shall be let, an agreement covering the same shall be executed by both the proposing body and the state highway commission.

(4) All construction, reconstruction, *maintenance* and repair authorized herein shall be pursuant to the design and subject to the supervision of the state highway commission, and all funds hereby allocated to counties, cities and towns shall be disbursed by the state highway commission to the lowest responsible bidder according to the

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bidding procedures specified in chapter 41, Title 32 of this code *with the exception that five per cent (5%) of the funds allocated each fiscal year to any county, incorporated city and town or seven thousand five hundred dollars ($7500), whichever amount is greater, may be expended for maintenance of rural roads and city or town streets without being submitted to bids.*

(5) The state highway commission shall make and establish such rules and regulations as may be necessary to carry out the intent of this act and shall keep records of the funds allocated to each city or town, and the subsequent expenditure of said funds.

(6) For the purposes of this act where distribution of funds is made on a basis related to population, the population shall be determined by the last preceding official federal census.

(7) For the purposes of this act where determination of mileage is necessary for distribution of funds it shall be the responsibility of the cities, towns and counties to furnish to the state highway commission a yearly certified statement indicating the total mileage within their respective areas applicable to this act. All mileage submitted shall be subject to review and approval by the state highway commission.

(8) None of the funds authorized by this section shall be used for the purchase of capital equipment. Section 2 (b), effective July 1, 1971, the total amount of funds allocated each fiscal year in section 2 (a) (1) to the counties and incorporated cities and towns shall reduce to one million five hundred thousand dollars ($1,500,000).''

Repealing clause.

Section 3. All acts or parts of acts in conflict with this enactment are hereby repealed.

Severability clause.

Section 4. The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

Approved: March 14, 1969.

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CHAPTER NO. 356

An Act Amending Section 11-1815, R.C.M. 1947, to Establish the Minimum Salary of Chiefs of Police in First Class Cities From Four Hundred Fifty Dollars ($450) Per Month to Six Hundred Fifty Dollars ($650) Per Month.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-1815, R.C.M. 1947, is amended to read as follows:

Salary of chief of police.

"11-1815. **Salary of chief of police.** That from and after July 1, *1969*, the salary of the chief of police in cities of the first class shall not be less than *six hundred fifty dollars ($650)* per month for the first year of service, and thereafter of at least *six hundred fifty* dollars *($650)* per month, plus one per cent (1%) of said minimum base monthly salary for each additional year of service up to and including the twentieth year of such additional service. Subject to such minimum the salary of the chief of police may be increased from time to time by the mayor, subject to the consent and approval of the council."

Approved: March 14, 1969.

CHAPTER NO. 357

An Act to Authorize the State Board for Vocational Education to Transfer Title to Buildings and/or Lands to School Districts for Use for Post-Secondary Vocational-Technical Education.

Be it enacted by the Legislative Assembly of the State of Montana:

State board for vocational education to transfer title to buildings to school districts for vocational educational.

Section 1. The state board for vocational education is hereby authorized to transfer, or direct transfer of, title held by the state of Montana in buildings and/or lands financed in whole or in part by an appropriation by the state legislature, to a school district at any time the said state board deems such transfer to be in the best interests of both the state and the school district involved, provided that this authorization extends only to buildings

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and/or lands which are to be used by the school district for post-secondary vocational-technical education.

Approved: March 14, 1969.

CHAPTER NO. 358

An Act Providing That the Tax on Net Insurance Premiums Shall Be Two and Three-Quarters Percent (2¾%) of the Premiums for the Calendar Years 1969 and 1970; Amending Section 40-2821, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 40-2821, R.C.M. 1947, is amended to read as follows: Amending clause.

"40-2821. **Tax.** (1) Each authorized insurer, and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state, shall file with the commissioner, on or before March 1 each year, a report (except as to wet marine and transportation insurance taxed under subsection (3) below) in form as prescribed by the commissioner showing total direct premium income including policy, membership and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance whether designated as a premium or otherwise, received by it during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana (with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons Tax.

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and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance 'premium' includes only the risk portion of the charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

Net premium tax.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums, the tax to be computed at the rate of two per cent (2%) of such premiums; provided that for each of the calendar years *1969 and 1970* the tax shall be computed at the rate of *two and three-quarters* per cent *(2¾%)* of such premiums.

Provided, that where any insurer has not less than fifty per cent (50%) of its paid-in capital stock invested in Montana securities, the insurer shall be allowed to deduct whatever tax it may have already paid to the state of Montana and its political subdivisions, during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section. For the purpose of this provision 'paid-in capital stock' as to a mutual or reciprocal insurer shall be deemed to be an amount equal to ten percent (10%) of the insurer's assets; and 'Montana securities' shall be deemed to include only general obligations of the state of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in Montana owned by the insurer, all if otherwise lawful investments of the insurer under this code.

Gross underwriting profit.

(3) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in section 40-2907, written in this state during the calendar year next preceding, and shall at the same time pay to the commissioner a tax of three-quarters of one per cent of such gross underwriting profit.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e. gross

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premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i.e. gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited or paid as participation dividends or savings by such insurers to the holders of such contracts.

Apportionment of premium tax.

(4) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

Premium tax in lieu of.

(5) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state and taxes payable under section 82-1231, Revised Codes of Montana, 1947 (tax for support of state fire marshall activities), and demands for state, county, city, district, municipal, and school taxes, licenses, fees, and excises made because of operations prior to January 1, 1957.

Power of state.

(6) The state of Montana hereby pre-empts the field of imposing excise, privilege, franchise, income, license, and similar taxes, licenses, and fees upon insurers and their general agents and agents as such, and on the intangible property of insurers or such agents; and no county, city, municipality, district, school district, or other political subdivision or agency in Montana shall levy upon insurers, or upon their general agents and agents as such, any such tax, license, or fee additional to such as are levied by the legislative assembly of Montana in this code.

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Revocation.

(7) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

Effective date.

(8) The provisions of this section shall apply to taxable years beginning after December 31, 1960."

Approved: March 14, 1969.

CHAPTER NO. 359

An Act to Increase the Oil Producers' License Tax From Two Percent (2%) of the Gross Value of the First Four Hundred Fifty (450) Barrels to Two and One-Tenth Percent (2.1%) and Increase the Tax on the Gross Value of the Production Above Four Hundred Fifty (450) Barrels From Two and One-Half Percent (2½%) to Two and Sixty-Five Hundredths Percent (2.65%); Providing for Payment of Said Tax in Full by the Person Required to Pay and for Settlement Thereafter With Other Owners of the Gross Proceeds; Amending Section 84-2202, R.C.M. 1947; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-2202, R.C.M. 1947, is amended to read as follows:

Oil producers' license tax—amount—exceptions.

"84-2202. **Oil producers' license tax—amount—exceptions.** Every person engaging in or carrying on the business of producing, within this state, petroleum, or other mineral or crude oil, or engaging in or carrying on the business of owning, controlling, managing, leasing or operating within this state any well or wells from which any merchantable or marketable petroleum or other mineral or crude oil is extracted or produced, sufficient in quantity to justify the marketing of the same, must, for the year beginning July 1, 1957, and each year thereafter, when engaged in or carrying on any such business in this state, pay to the state treasurer, for the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business, computed at the following rates:

(a) two *and one-tenth* per cent *(2.1%)* of the total

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gross value of that portion of all the petroleum and other mineral or crude oil produced by such person from each lease or unit in the calendar quarter not in excess of an amount obtained by multiplying the number of producing wells on such lease or unit by four hundred fifty (450) barrels.

(b) two and *sixty-five hundredths* per cent *(2.65%)* of the total gross value of that portion of all the production of such person from each lease or unit in each calendar quarter in excess of four hundred fifty (450) barrels multiplied by the number of producing wells on such lease or unit; but in determining the amount of such tax there shall be excluded from consideration all petroleum, or other crude or mineral oil produced and used by such person during such year in connection with his operations in prospecting for, developing and producing such petroleum, crude or mineral oil; provided, however, that nothing in this act shall be construed as requiring laborers or employees, hired or employed by any person, to drill any oil well, or to work in or about any oil well, or prospect or explore for, or do any work for the purpose of developing any petroleum or other mineral or crude oil to pay such license tax, nor shall any work be done, or the drilling of any well or wells, for the purpose of prospecting or exploring for petroleum or other mineral or crude oils, or for the purpose of developing same, be deemed to be engaging in or carrying on of any such business; provided, further, that in the doing of any such work, or in the drilling of any oil well, or in such prospecting, exploring or development work, any merchantable or marketable petroleum or other mineral or crude oil in excess of the quantity required by such person for carrying on such operation shall be produced sufficient in quantity to justify the marketing of the same, then such work, drilling, prospecting, exploring or development work shall be deemed to be the engaging in and carrying on of such business within this state within the meaning of this section.

(c) Every person required to pay such tax hereunder shall pay the same in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil extracted and produced, including owner or owners of working interest,

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royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of such extracted marketable petroleum or other mineral or crude oil; in all leases establishing royalty interests entered into hereafter or in renewals of existing leases, or in division of proceeds orders, or by other contracts, such other owner or owners may agree with every person required to pay such tax that such other owner or owners will pay their pro rata share of said tax, and that said pro rata share may be deducted from any settlements under said lease or leases or division of proceeds orders or other contracts."

Effective date.

Section 2. This act is effective for all taxable years commencing after December 31, 1968.

Approved: March 14, 1969.

CHAPTER NO. 360

An Act to Amend Section 91-4411, R.C.M. 1947, by Imposing an Estate Tax on Those Estates Subject to Tax by the Internal Revenue Code of 1954.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-4411, R.C.M. 1947, is amended to read as follows:

Estate tax.

"91-4411. **Estate tax.** (a) In addition to the taxes hereinabove imposed, an estate tax is hereby imposed upon the transfer of all estates which are subject to an estate tax under the provisions of the *Internal Revenue Code of 1954*, and amendments thereto, where the decedent, at the time of his decease, was a resident of this state. The amount of said estate tax shall be equal to the extent, if any, of the excess of the credit of not exceeding eighty per cent (80%), allowable under said *Internal Revenue Code*, over the aggregate amount of all estates, inheritance, transfer, legacy and succession taxes paid to any state or territory or the District of Columbia, in respect to any property in the estate of said decedent. Provided, that such estate tax hereby imposed shall in no case exceed the extent to which its payments will effect a

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saving or diminution in the amount of the United States estate tax payable by, or out of the estate of the decedent, had subdivisions (a) to (h) not been enacted. The tax imposed herein shall be collected by the several county treasurers or the state treasurer and distributed as hereafter provided.

When payable.

(b) **When payable.** The estate tax shall be payable to the county treasurer of the county in which such estate is being probated at the same time, or times, at which the United States tax is payable and shall bear interest, if any, at the same rate and for the same period as such United States tax.

Liability.

(c) **Liability.** Administrators, executors, trustees and grantees under a conveyance, made during the grantor's life and taxable hereunder, shall be liable for such taxes with interest, until the same have been paid.

Lien.

(d) **Lien.** Said taxes and interest shall be, and remain, a lien on the property subject to the taxes until the same are paid.

Extension of time.

(e) **Extension of time.** The district court of the county in which such estate is being probated may, for cause shown, extend the time of payment of said tax whenever the circumstances of the case require.

Duplicate returns.

(f) **Duplicate returns.** It shall be the duty of the legal representative of the estate of any decedent, who was a resident of this state at the time of his death and whose estate may be subject to the payment of a United States estate tax, to file duplicates of the United States estate tax returns with the district court of the county in which such estate is being probated. He shall also file with such court a certificate or other evidence from the bureau of internal revenue showing the amount of the United States estate tax as computed by that department. The district court shall hear all parties desiring to be heard with respect to the amount of state estate tax and shall enter an order determining such tax and the amount thereof so due and payable. Any person in interest aggrieved by such determination shall have the same right of rehearing and appeal as is now provided for in the determination of inheritance taxes.

Intent.

(g) **Intent of subdivisions (a) to (h).** It is hereby

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declared to the intent and purpose of subdivisions (a) to (h) to obtain for this state the benefit of the credit allowed under the provisions of said *Internal Revenue Code,* to the extent that this state may be entitled by the provisions of said act, by imposing additional taxes and the same shall be liberally construed to effect this purpose.

Provisions applicable.

(h) **Provisions applicable.** The provisions of sections 91-4401 to 91-4456, inclusive, relating to the tax on inheritances and transfers, shall apply to the taxes imposed by subdivisions (a) to (h), in so far as the same are applicable and not in conflict with the provisions hereof."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved: March 14, 1969.

CHAPTER NO. 361

An Act to Provide a Uniform Agricultural Seed Law Defining Seeds and Regulating the Sale and Labeling of Seeds by Amending Section 3-803 and by Repealing Sections 3-801, 3-802, 3-816, 3-817, 3-818, 3-819, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Terms used in this act and not otherwise identified are hereby defined:

"Agricultural seeds."

(1) Agricultural seeds shall be the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seeds, and shall include lawn seeds and mixtures of seeds.

"Vegetable seeds."

(2) Vegetable seeds shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

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"Flower seeds." (3) Flower seeds shall include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and are commonly known and sold under the name of flower seeds in this state.

"Weed seeds." (4) (a) The term "weed seeds" shall include the seeds or bulblets of all plants generally recognized as weeds within this state, and shall include noxious weed seeds.

(b) Noxious weed seeds are hereby divided into two (2) groups defined as follows:

"Prohibited noxious weed seeds." 1. "Prohibited noxious weed seeds" are the seeds of perennial and other serious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts, and which when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice. Prohibited noxious weed seeds shall include the seeds of:

Canada thistle	(Cirsium arvense)
	(Carduus arvensis)
Leafy spurge	(Euphorbia esula)
White top	
(Perennial peppergrass)	(Cardaria draba)
(Hoary cress)	(Cardaria pubescens)
Quack grass	(Agropyron repens)
Russian knapweed	(Centaurea picris)
Perennial sow thistle	(Sonchus arvensis)
Wild morning glory	(Convolvulus arvensis)
(Field bindweed)	
Dalmatian toadflax	(Linaria dalmatica)
Halogeton	(Halogeton glomeratus)
Medusa-head wildrye	(Elymus caput-medusae)
Creeping bell flower	(Campanula repunculoides)
Common toadflax	(Linaria vulgaris)

Restricted noxious weed seeds." 2. "Restricted noxious weed seeds" are the seeds of weeds that are very objectionable in fields, lawns and gardens of this state, but can be controlled by good cultural practices. Restricted noxious weed seeds shall include the seeds of:

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Dodder	(Cuscuta spp.)
Blue flowering lettuce	(Lactuca pulchella)
St. Johnswort (Klamath-weed)	(Hypericum perforatum)
Ox-eye daisy	(Chrysanthemum leucanthemum)
Spotted knapweed	(Centaurea maculosa)
Hoary false alyssum	(Berteroa incana)
Wild oats	(Avena fatua)
Buckhorn plantain	(Plantain lanceolata)
Chickweed	(Stellaria spp.)
Curled dock	(Rumex crispus)

"Hybrid." (5) The term "hybrid" applied to kinds of varieties of seed means the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines; (b) one inbred or a single cross with an open pollinated variety; or (c) two or more selected clones, seed lines, varities, or species. "Controlling the pollination" means to use a method hybridization which will produce pure seed which is at least seventy-five percent (75%) hybrid seed. Hybrid designations shall be treated as variety names.

"Approximate percentage." (6) The terms "approximate percentage" and "approximate number" shall mean the percentage or number with the variations above or below as allowed according to the tolerance limits defined in the "rules for seed testing" adopted by the Association of Official Seed Analysts of North America.

"Percentage of germination." (7) The term "percentage of germination" shall mean the percentage of seeds which show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the "rules for seed testing" adopted by the Association of Official Seed Analysts of North America.

State of growth. (8) The term "name of state in which the seed was grown" shall mean any of the several states of the United States or the foreign country.

"Other crop seeds." (9) The term "other crop seeds" shall mean any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

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"Sell." (10) The term "sell" shall include "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade." It shall also include agricultural seeds which are furnished to growers for the production of a crop on contract.

Agricultural seed labels. Section 2. The owner, vendor, or person in possession of each and every package, parcel, or lot of agricultural seeds, as defined in the first section of this act, that contains one (1) pound, or more, of agricultural seeds, whether in package or in bulk, shall before offering the seeds for sale affix in a conspicuous place on the exterior of the container a written or printed label in the English language in legible type or copy and the label shall contain a statement specifying:

(1) A lot number or other distinguishing mark.

(2) **Kind.** The name of each kind of seed present in excess of five percent (5%) shall be shown on the label and need not be accompanied by the word "kind." When two or more kinds of seed are named on the label, the name of each kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of five percent (5%) and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply to seed of the kind named.

Variety. (a) The following kinds of agricultural seeds are generally labeled as to variety and shall be labeled to show the variety name or the words "Variety Not Stated":

Alfalfa
Barley
Bean, field
Beet, field
Brome, smooth
Clover, crimson
Clover, red
Clover, white
Corn, field
Corn, pop
Fescue, tall
Flax

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Millet, foxtail
Oat
Pea, field
Rye
Safflower
Sorghum
Sorghum-Sudan hybrid
Soybean
Sudangrass
Sunflower
Trefoil, Birdsfoot
Wheat, common
Wheat, Durum

(b) If the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety." The percentage in this case may be shown as "pure seed" and shall apply only to seed of the variety named. If separate percentages for the kind and the variety or hybrid are shown, the name of the kind and the name of the variety or the term "hybrid" shall be clearly associated with the respective percentages. When two or more varities are present in excess of five percent (5%) and are named on the label, the name of each variety shall be accompanied by the percentage of each.

(3) If any one kind or kind and variety of seed present in excess of five percent (5%) is "hybrid" seed, it shall be designated "hybrid" on the label. The percentage that is hybrid shall be at least ninety-five percent (95%) of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varities are present in excess of five percent (5%) and are named on the label, each that is hybrid shall be designated as hybrid on the label. Any one kind or kind and variety that has pure seed which is less than ninety-five percent (95%) but more than seventy-five percent (75%) hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show (a) the percentage of pure seed that is hybrid seed or (b) a statement such as "Contains from seventy-five percent (75%) to ninety-five (95%) hybrid seed." No one kind or variety of seed shall be labeled as hybrid if the pure seed

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contains less than seventy-five percent (75%) hybrid seed.

(4) Origin, state or foreign country if known, of alfalfa, red clover, white clover, native range grasses and field corn other than hybrid. If the origin is unknown, the fact shall be stated.

(5) The approximate percentage of germination of agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately; with the provision that any portion or all of the percentage of hard seeds may be added to the percentage of germination, and stated as "total germination and hard seed."

(6) The approximate percentage by weight of pure seed, meaning the freedom of agricultural seeds from inert matter and from other seeds.

(7) The approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in agricultural seeds.

(8) The approximate total percentage by weight of weed seeds.

(9) The approximate percentage by weight of other crop seeds in agricultural seeds.

(10) The name and approximate number of each kind or species of restricted noxious weed seeds occurring in excess of nine (9) weed seeds per pound of agricultural, vegetable, or flower seeds.

(11) The full name and address of the seedsman, importer, dealer or agent, other person or persons, or firm or corporation selling the agricultural seed.

(12) In the case of mixtures of agricultural seeds which contain two (2) or more kinds of seed in excess of five percent (5%) by weight of each, when sold as mixtures:

(a) Name of mixture.

(b) The name and approximate percentage by weight

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of each kind of agricultural seed present in the mixture in excess of five percent (5%) by weight of the total mixture.

(c) Approximate percentage by weight of broken seeds and other inert matter in the mixture of agricultural seeds.

(d) Approximate percentage by weight of weed seeds as defined in the first section of this act.

(e) Approximate percentage by weight of other crop seed in the mixture of agricultural seeds.

(f) The name and approximate number of each kind or species of restricted noxious weed seeds occurring in excess of nine (9) weed seeds per pound of mixtures of agricultural seeds, subject, however, to restrictions as specified in the fourth section of this act.

(g) Approximate percentage of germination of each kind of agricultural seed present in the mixture in excess of five percent (5%) by weight, together with the month and year the seed was tested. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the hard seed may be added to the percentage of germination and stated as "total germination and hard seed."

(h) Full name and address of the vendor of the mixture.

Vegetable and flower seed labels.

Section 3. Vegetable and flower seeds in packets and in larger containers shall be labeled with the required information as follows:

(1) Each container of one (1) pound or less:

(a) The commonly accepted name of the kind or the kind and variety of the seed.

(b) The name and address of the person who labeled the seed or who sells the seed within this state.

(c) The name and number per pound of each kind

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of restricted noxious weed seeds as prescribed in section 4 of this act.

(d) In the case of seed which has a percentage of germination less than the standard prescribed in the Federal Seed Act:

1. The percentage of germination.

2. The percentage of hard seed, if more than one percent (1%).

3. The month and year the test to determine the data required by this section was completed.

4. The words "below standard germination" in not less than eight (8) point bold face type.

(2) Each container of more than one (1) pound:

(a) The name of the kind and variety of the contents.

(b) The lot numbers or other lot identification.

(c) The name and number per pound of each kind of restricted noxious weed seed as prescribed in section 4 of this act.

(d) The percentage of germination and whether the percentage of germination meets or exceeds the standard established in the Federal Seed Act.

(e) The percentage of hard seed, if more than one percent (1%).

(f) The month and year the test to determine the data required by this section was completed.

(g) The name and address of the person who labeled the seed or who sells the seed within this state.

Section 4. No person, firm, corporation, copartnership or association shall sell or transport for use in planting in the state of Montana any agricultural, vegetable or flower seed that:

(1) Contains prohibited noxious weed seeds.

(2) Contains restricted noxious weed seeds in excess of the maximum numbers per pound as follows:

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Species		Number allowed per pound
Dodder	(Cuscuta spp.)	18
Blue flowering lettuce	(Lactuca pulchella)	27
St. Johnswort (Klamath-weed)	(Hypericum perforatum)	27
Ox-eye daisy	(Chrysanthemum leucanthemum)	90
Spotted knapweed	(Centaurea maculosa)	18
Hoary false alyssum	(Berteroa incana)	9
Wild oats	(Avena fatua)	45
Buckhorn plantain	(Plantago lanceolata)	90
Chickweed	(Stellaria spp.)	9
Curled dock	(Rumex crispus)	45

(3) Contains in excess of two percent (2%) or more of weed seed.

(4) Is offered or exposed for sale more than nine (9) calendar months from the last day of the month in which the germination test was completed. This nine (9) month limitation shall not apply when seed is packaged in hermetically-sealed containers within twelve (12) months after harvest. The container must be conspicuously labeled in not less than eight (8) point type to indicate:

(a) That the container is hermetically sealed.

(b) That the seed has been preconditioned as to moisture content.

(c) That the germination test is valid for a period not to exceed eighteen (18) months from the date of the germination test for seeds offered for sale on a wholesale basis, and for a period not to exceed thirty-six (36) months for seeds offered for sale at retail.

(d) That the germination of vegetable seed at the time of packaging was equal to or above standards prescribed in the Federal Seed Act of August 1963, with subsequent revisions.

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(5) Is represented in any manner to be for lawn seeding purposes, unless it contains at least fifty percent (50%) pure seed of perennial fine-leaf species which shall be specified by rules and regulations pursuant to this act. However, grass mixtures which do not contain fifty percent (50%) pure seed of perennial fine-leaf grasses may be sold. When these grass mixtures are contained in packages of twenty-five (25) pounds or less, they shall carry the statements: "Not recommended for a fine-leaf perennial turf. Satisfactory for a temporary ground cover or where coarse grass is not objectionable." A definition of fine-leaf varities to be promulgated in the regulations is as follows:

(a) Bluegrasses — all varieties except Canada Bluegrass (Poa compressa) and Annual Blue grass (Poa annua).

(b) Chewings Red Fescue and all improved varieties.

(c) Creeping Red Fescue and all improved varieties.

(d) Bentgrass — all varieties.

(e) Fine Leafed Ryegrasses.

Modification of classifications.

Section 5. The commissioner of agriculture may, with the written approval of the director of the Montana experiment station recorded prior to or within ten (10) days after the public hearing, prescribed herein, add to or remove from, revise, or modify the foregoing groups and classifications of noxious weed seeds, and the noxious weed seeds within any groups or classifications, as the circumstances may require in aid of the purpose of this act to prevent or diminish the distribution and occurrence of such noxious weed seeds within the state of Montana, but no additions, removals or modifications shall be made without a full public hearing, on adequate and informative written or published notice plainly stating the exact additions, removals or modifications proposed to be made, and said notice shall be given by the commissioner at least thirty (30) days before the day set for said hearing and shall state the time and place of said hearing, and said notice shall be published in three (3) newspapers of general circulation in the state, and such notice shall be mailed to all associations of seed dealers in the state who are organized on a statewide

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basis. If any revision or modification is determined to be made as a result of any such hearing, the same shall be promulgated by a written order of the commissioner, countersigned "approved" by the director of the Montana experiment station, plainly stating the revisions or modifications and the effective date or dates thereof, and any and all qualifications, exceptions or conditions connected with such revisions or modifications.

Amending clause.

Section 6. Section 3-803 R.C.M. 1947, is amended to read as follows:

Exception of seeds—when.

"3-803. **Exception of seeds, when.** Agricultural seeds or mixtures of same shall be exempt from the provisions of this act:

(1) When possessed, exposed for sale, or sold for food purposes only.

(2) When sold to merchants or dealers to be recleaned before being sold or offered for sale for seeding purposes.

(3) When in store for the purpose of recleaning or not possessed, sold or offered for sale for seeding purposes within the state."

Repealing clause.

Section 7. Sections 3-801, 3-802, 3-816, 3-817, 3-818 and 3-819 R.C.M. 1947, are repealed.

Approved: March 14, 1969.

CHAPTER NO. 362

An Act to Provide for Regulation of Insurance Rates and Rating Organizations, Advisory Organizations and Joint Underwriting and Joint Reinsurance; and Repealing Sections 40-3601 Through 40-3633, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose and intent.

Section 1. **Purpose and intent of chapter.** The purpose of this chapter is to promote the public welfare by regulating insurance rates as herein provided to the end that they shall not be excessive, inadequate or unfairly discriminatory, to authorize the existence and operation of qualified rating organizations and advisory organizations and require that specified rating services of such

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rating organizations be generally available to all admitted insurers, and to authorize cooperation between insurers in rate making and other related matters.

It is the express intent of this chapter to permit and encourage competition between insurers on a sound financial basis, and nothing in this chapter is intended to give the commissioner power to fix and determine a rate level by classification or otherwise.

"Rating organization."

Section 2. **"Rating organization" defined.** In this chapter "rating organization" means every person, other than an admitted insurer, whether located within or outside this state, who has as his object or purpose the making of rates, rating plans or rating systems. Two or more admitted insurers which act in concert for the purpose of making rates, rating plans or rating systems, and which do not operate within the specific authorizations contained in sections 9, 11, 12, 20 and 21 shall be deemed to be a rating organization. No single insurer shall be deemed to be a rating organization.

"Advisory organization."

Section 3. **"Advisory organization" defined.** In this chapter "advisory organization" means every person, other than an admitted insurer, whether located within or outside this state, who prepares policy forms or makes underwriting rules incident to but not including the making of rates, rating plans or rating systems, or which collects and furnishes to admitted insurers or rating organizations loss or expense statistics or other statistical information and data and acts in an advisory, as distinguished from a rate making, capacity. No duly authorized attorney-at-law, acting in the usual course of his profession, shall be deemed to be an advisory organization.

"Member."

Section 4. **"Member" and "subscriber" defined.** Unless otherwise apparent from the context, in this chapter: (a) "member" means an insurer who participates in or is entitled to participate in the management of a rating, advisory or other organization.

"Subscriber."

(b) "Subscriber" means an insurer which is furnished at its request (1) with rates and rating manuals by a rating organization of which it is not a member; or (2) with advisory services by an advisory organization of which it is not a member.

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"Wilful."

Section 5. **"Wilful" and "wilfully" defined.** In this chapter "wilful" or "wilfully," in relation to an act or omission which constitutes a violation of this chapter, means with actual knowledge or belief that such act or omission constitutes such violation and with specific intent to commit such violation.

Scope.

Section 6. **Scope of chapter.** This chapter applies to all insurers and all kinds of insurance, except that nothing contained in this chapter shall apply to:

(1) Life insurance.

(2) Disability insurance.

(3) Reinsurance, except joint reinsurance as provided in section 20 of this chapter.

(4) Insurance against loss of or damage to aircraft, their hulls, accessories and equipment, or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft.

(5) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies.

(6) Title insurance.

(7) Workmen's compensation or employers' liability insurance written in connection with workmen's compensation.

Rating standards.

Section 7. **Standards applicable to rates.** The following standards shall apply to the making and use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:

(a) Rates shall not be excessive or inadequate, as herein defined, nor shall they be unfairly discriminatory.

No rate shall be held to be excessive unless (1) such rate is unreasonably high for the insurance provided, and (2) a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

No rate shall be held to be inadequate unless (1) such

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rate is unreasonably low for the insurance provided, and (2) the continued use of such rate endangers the solvency of the insurer using the same, or unless (3) such rate is unreasonably low for the insurance provided and the use of such rate by the insurer using same has, or if continued will have, the effect of destroying competition or creating a monopoly.

(b) Consideration shall be given, to the extent applicable, to past and prospective loss experience within and outside this state, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses, both country-wide and these specially applicable to this state, and to all other factors, including judgment factors, deemed relevant within and outside this state; and in the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent five-year period for which such experience is available.

Consideration may also be given in the making and use of rates to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(c) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof.

(d) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations. Such classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions.

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Insurers authorized to act in concert.

Section 8. **Insurers authorized to act in concert.** Subject to and in compliance with the provisions of this chapter authorizing insurers to be members or subscribers of rating or advisory organizations or to engage in joint underwriting or joint reinsurance, two or more insurers may act in concert with each other and with others with respect to any matters pertaining to the making of rates or rating systems, the preparation or making of insurance policy or bond forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data, or carrying on of research.

Insurers with common ownership—cosurety bonds.

Section 9. **Admitted insurers with common ownership or management—matters relating to cosurety bonds.** With respect to any matters pertaining to the making of rates or rating systems, the preparation or making of insurance policy or bond forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data, or carrying on of research, two or more admitted insurers having a common ownership or operating in this state under common management or control, are hereby authorized to act in concert between or among themselves the same as if they constituted a single insurer, and to the extent that such matters relate to cosurety bonds, two or more admitted insurers executing such bonds are hereby authorized to act in concert between or among themselves the same as if they constituted a single insurer.

Use of rating systems and organizations—agreements.

Section 10. **Use of rates, rating systems, underwriting rules and policy or bond forms of rating or advisory organizations—agreements to adhere thereto.** Members and subscribers of rating or advisory organizations may use the rates, rating systems, underwriting rules or policy or bond forms of such organizations, either consistently or intermittently, but, except as provided in sections 9, 12, 20 and 21, shall not agree with each other or rating organizations or others to adhere thereto. The fact that two or more admitted insurers, whether or not members or subscribers of a rating or advisory organization, use, either consistently or intermittently, the rates or rating systems made or adopted by a rating organization, or the underwriting rules or policy or bond forms prepared by a rating or advisory organization, shall not be sufficient in itself to support a finding that an agree-

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ment to so adhere exists, and may be used only for the purpose of supplementing or explaining direct evidence of the existence of any such agreement.

Exchange of information and consultation with rating organizations.

Section 11. **Exchange of information or experience data— consultation with rating organizations and insurers.** Licensed rating organizations and admitted insurers are authorized to exchange information and experience data with rating organizations and insurers in this and other states and may consult with them with respect to rate making and the application of rating systems.

Agreements to apportion casualty insurance.

Section 12. **Agreements for apportionment of casualty insurance—approval of commissioner—review of practices of adherents—revocation of approval.** (a) Agreements may be made among admitted insurers with respect to the equitable apportionment among them of casualty insurance which may be afforded applicants who are in good faith entitled to, but who are unable to procure, such insurance through ordinary methods, and with respect to the use of reasonable rate modifications for such insurance, such agreements to be subject to the approval of the commissioner.

(b) All such agreements shall be submitted in writing to the commissioner for his consideration and approval, together with such information as he may reasonably require. The commissioner shall approve only such agreements as are found by him to contemplate (a) the use of rates which meet the standards prescribed by this chapter, and (b) activities and practices that are not unfair, unreasonable or otherwise inconsistent with the provisions of this chapter.

At any time after such agreements are in effect the commissioner may review the practices and activities of the adherents to such agreements and if, after a hearing upon not less than ten (10) days' notice to such adherents, he finds that any such practice or activity is unfair or unreasonable, or is otherwise inconsistent with the provisions of this chapter, he may issue a written order to the parties to any such agreement, specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity

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or practice. For good cause, and after hearing upon not less than ten (10) days' notice to the adherents thereto, the commissioner may revoke approval of any such agreement.

Joint underwriters and reinsurers.

Section 13. **Joint underwriters and reinsurers.** Upon compliance with the provisions of this chapter applicable thereto any rating organization, advisory organization, and any group, association or other organization of admitted insurers which engages in joint underwriting or joint reinsurance through such organization or by standing agreement among the members thereof, may conduct operations in this state. As respects insurance risks or operations in this state, no insurer shall be a member or subscriber of any such organization, group or association that has not complied with the provisions of this chapter applicable to it.

Rating organizations.

Section 14. **Rating organizations.** No rating organization shall conduct its operations in this state without first filing with the commissioner a written application for, and securing a license to act as, a rating organization. Any rating organization may make application for and obtain a license as a rating organization if it shall meet the requirements for license set forth in this chapter. Every such rating organization shall file with its application (a) a copy of its constitution, its articles of incorporation, agreement or association, and of its bylaws, rules and regulations governing the conduct of its business, all duly certified by the custodian or the originals thereof, (b) a list of its members and subscribers, (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served, and (d) a statement of its qualifications as a rating organization.

Evidence prerequisite to license.

Section 15. **Evidence prerequisite to license.** To obtain and retain a license, a rating organization shall provide satisfactory evidence to the commissioner that it will:

(a) Permit any admitted insurer to become a member of or a subscriber to such rating organization at a reasonable cost and without discrimination, or withdraw therefrom.

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(b) Neither have nor adopt any rule or exact any agreement, the effect of which would be to require any member or subscriber, as a condition to membership or subscribership, to adhere to its rates, rating plans, rating systems, underwriting rules or policy or bond forms.

(c) Neither adopt any rule nor exact any agreement, the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Neither practice nor sanction any plan or act of boycott, coercion or intimidation.

(e) Neither enter into nor sanction any contract or act by which any person is restrained from lawfully engaging in the insurance business.

(f) Notify the commissioner promptly of every change in its constitution, its articles of incorporation, agreement or association, and of its bylaws, rules and regulations governing the conduct of its business; its list of members and subscribers; and the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such organization may be served.

(g) Comply with the provisions of section 21.

Application and issuance of license.

Section 16. **Examination of application and investigation of applicant—issuance of license.** The commissioner shall examine each application for license to act as a rating organization and the documents filed therewith and may make such further investigation of the applicant, its affairs and its proposed plan of business as he deems desirable.

The commissioner shall issue the license applied for within sixty (60) days of its filing with him if, from such examination and investigation, he is satisfied that:

(a) The business reputation of the applicant and its officers is good.

(b) The facilities of the applicant are adequate to enable it to furnish the services it proposes to furnish.

(c) The applicant and its proposed plan of operation conform to the requirements of this chapter.

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Otherwise, but only after hearing upon notice the commissioner shall, in writing, deny the application and notify the applicant of his decision and his reasons therefor.

The commissioner may grant an application in part only and issue a license to act as a rating organization for one or more of the classes of insurance or subdivisions thereof or class of risk, or a part or combination thereof as are specified in the application, if the applicant qualifies for only a portion of the classes applied for.

Licenses issued pursuant to this section shall remain in effect until revoked as provided in this chapter.

Rules of membership.

Section 17. **Rules governing eligibility for membership.** Subject to the approval of the commissioner, licensed rating organizations may make reasonable rules governing eligibility for membership.

Insurers having common ownership or management.

Section 18. **Insurers with common ownership or management.** If two or more insurers having a common ownership or operating in this state under common management are admitted for the classes or types of insurance for which a rating organization is licensed to make rates, the rating organization may require as a condition to membership or subscribership of one or more that all such insurers shall become members or subscribers.

Advisory organizations.

Section 19. **Advisory organizations.** No advisory organization shall conduct its operations in this state unless and until it has filed with the commissioner (a) a copy of its constitution, articles of incorporation, agreement or association, and of its bylaws or rules and regulations governing its activities, all duly certified by the custodian of the originals thereof; (b) a list of its members and subscribers; and (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process may be served.

Every such advisory organization shall notify the commissioner promptly of every change in its constitution, its articles of incorporation, agreement or association, and of its bylaws, rules and regulations governing the conduct of its business; its list of members and subscribers; and the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such organization may be served.

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No such advisory organization shall engage in any unfair or unreasonable practice with respect to such activities.

Joint underwriting and reinsurance.

Section 20. **Joint underwriting and joint reinsurance.** Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance through such group, association or organization, or by standing agreement among the members thereof, shall file with the commissioner (a) a copy of its constitution, its articles of incorporation, agreement or association, and of its bylaws, rules and regulations governing its activities, all duly certified by the custodian of the originals thereof, (b) a list of its members, and (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process may be served.

Every such group, association or other organization shall notify the commissioner promptly of every change in its constitution, its articles of incorporation, agreement or association, and its bylaws, rules and regulations governity the conduct of its business; its list of members; and the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such group, association or organization may be served.

No such group, association or organization shall engage in any unfair or unreasonable practice with respect to such activities.

Records.

Section 21. **Maintenance of records—necessity—contents—compliance with section—place of maintenance.** Every insurer, rating organization or advisory organization, and every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members, and of the data, statistics or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys or inspections made or used by it, so that such records will be available at all reasonable times to enable the commissioner to determine whether such organization,

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insurer, group or association, and, in the case of an insurer or rating organization, every rate, rating plan and rating system made or used by it, complies with the provisions of this chapter applicable to it. The maintenance of such records in the office of a licensed rating organization of which an insurer is a member or subscriber will be sufficient compliance with this section for any insurer maintaining membership or subscribership in such organization, to the extent that the insurer uses the rates, rating plans, rating systems or underwriting rules of such organization. Such records shall be maintained in an office within this state or shall be made available for examination or inspection within this state by the commissioner at any time upon reasonable notice.

Examination of records.

Section 22. **Records and examination.** The commissioner shall, at least once every five (5) years, and may as often as may be reasonable and necessary, make or cause to be made, an examination of each licensed rating organization, and he may, as often as may be reasonable and necessary, make or cause to be made an examination of any advisory organization or group, association or other organization of insurers which engages in joint underwriting or joint reinsurance.

In lieu of any such examination, the commissioner may accept the report of an examination made by the insurance supervisory official of another state.

In examining any organization, group or association pursuant to this section, the commissioner shall ascertain whether such organization, group or association, and, in the case of a rating organization, any rate or rating system made or used by it, complies with the requirements and standards of this chapter applicable to it.

Examination of admitted insurers.

Section 23. **Examination of admitted insurers.** The commissioner may, at any reasonable time, make or cause to be made an examination of every admitted insurer transacting any class of insurance to which the provisions of this chapter are applicable to ascertain whether such insurer and every rate and rating system used by it for every class of insurance complies with the requirements and standards of this chapter applicable thereto. Such examination shall not be a part of a periodic general examination participated in by representatives of more than one state.

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Examination of officers, managers, agents and employees.

Section 24. **Examination of officers, managers, agents and employees.** The officers, managers, agents and employees of any such organization, group, association or insurer may be examined at any time under oath, and shall exhibit all books, records, accounts, documents or agreements governing its method of operation, together with all data, statistics and information of every kind and character collected or considered by such organization, group, association or insurer in the conduct of the operations to which such examination relates.

Cost of examination.

Section 25. **Payment of cost of examination.** The reasonable cost of any examination authorized by this article shall be paid by the organization, group, association or insurer to be examined.

Review of rates.

Section 26. **Review of rates.** Any person aggrieved by any rate charged, rating plan, rating system or underwriting rule followed or adopted by an insurer or rating organization, may request the insurer or rating organization to review the manner in which the rate, plan, system or rule has been applied with respect to insurance afforded him. Such request may be made by his authorized representative, and shall be written. If the request is not granted within thirty (30) days after it is made, the requester may treat it as rejected. Any person aggrieved by the action of an insurer or rating organization in refusing the review requested, or in failing or refusing to grant all or part of the relief requested, may file a written complaint and request for hearing with the commissioner, specifying the grounds relied upon. If the commissioner has information concerning a similar complaint, he may deny the hearing. If he believes that probable cause for the complaint does not exist or that the complaint is not made in good faith, he shall deny the hearing. Otherwise, and if he finds that the complaint charges a violation of this chapter and that the complainant would be aggrieved if the violation is proven, he shall proceed as provided in section 27.

Noncompliance of rates.

Section 27. **Noncompliance of rates.** If, after examination of an insurer, rating organization, advisory organization, or group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, or upon the basis of other information, or

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upon sufficient complaint as provided in section 26, the commissioner has good cause to believe that such insurer, organization, group or association, or any rate, rating plan or rating system made or used by any such insurer or rating organization, does not comply with the requirements and standards of this chapter applicable to it, he shall, unless he has good cause to believe such noncompliance is wilful, give notice, in writing, to such insurer, organization, group or association stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten (10) days thereafter, in which such noncompliance may be corrected. Notices under this section shall be confidential as between the commissioner and the parties unless a hearing is held under section 28.

Hearings.

Section 28. **Hearings.** If the commissioner has good cause to believe such noncompliance to be wilful, or if within the period prescribed by the commissioner in the notice required by section 27, the insurer, organization, group or association does not make such changes as may be necessary to correct the noncompliance specified by the commissioner, or establish to the satisfaction of the commissioner that such specified noncompliance does not exist, then the commissioner may hold a public hearing in connection therewith, provided that within a reasonable period of time, which shall be not less than ten (10) days before the date of such hearing, he shall mail written notice specifying the matters to be considered at such hearing to such insurer, organization, group or association. If no notice has been given as provided in section 27, such notice shall state therein in what manner and to what extent noncompliance is alleged to exist. The hearing shall not include any additional subjects not specified in the notices required by section 27 or this section.

Issuance of order—suspension or revocation of authority.

Section 29. **Issuance of order—suspension or revocation of certificate or authority or license.** If, after a hearing pursuant to section 28, the commissioner finds:

(a) That any rate, rating plan or rating system violates the provisions of this chapter applicable to it, he may issue an order to the insurer or rating organization which has been the subject of the hearing, specifying in

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what respects such violation exists and stating when, within a reasonable period of time, the further use of such rate or rating system by such insurer or rating organization in contracts of insurance made thereafter shall be prohibited.

(b) That an insurer, rating organization, advisory organization, or a group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, is in violation of the provisions of this chapter applicable to it, other than the provisions dealing with rates, rating plans or rating systems, he may issue an order to such insurer, organization, group or association which has been the subject of the hearing, specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

(c) That the violation of any of the provisions of this chapter applicable to it by any insurer or rating organization which has been the subject of hearing was wilful, he may suspend or revoke, in whole or in part, the certificate of authority of such insurer or the license of such rating organization with respect to the class of insurance which has been the subject matter of the hearing.

(d) That any rating organization has wilfully engaged in any fraudulent or dishonest act or practices, he may suspend or revoke, in whole or in part, the license of such organization, in addition to any other penalty provided in this chapter.

Failure to comply with order.

Section 30. **Failure to comply with order—suspension or revocation of license or certificate.** In addition to other penalties provided in this code, the commissioner may suspend or revoke, in whole or in part, the license of any rating organization or the certificate of authority of any insurer with respect to the class or classes of insurance specified in such order which fails to comply within the time limited by such order or any extension thereof which the commissioner may grant, with an order of the commissioner lawfully made by him pursuant to section 29 and effective pursuant to section 31.

Appeals.

Section 31. **Appeals from the commissioner.** Any person, insurer or rating organization aggrieved by any order or decision made by the commissioner under this

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chapter may appeal therefrom to the district court of the county where the aggrieved party may reside, or has his principal place of business in this state, or to the district court of Lewis and Clark County, Montana. The appeal shall be taken within thirty (30) days from the making and filing of the order or decision by filing in the office of the commissioner a notice of the appeal in writing. The commissioner shall, within twenty (20) days after filing of the notice, make and return to the district court a full and complete certified transcript of the finding and order appealed from and of all parts relative thereto on file in his office, including the notice of appeal. Upon filing of the certified transcript, all matters involved therein shall be brought on for trial upon the merits at the next term of the court after the filing of the transcript, unless otherwise ordered by the court. Upon the trial, the findings of fact on which the order is based shall be prima facie evidence of the matters therein stated. During the pendency of the proceedings upon review, the order of the commissioner shall be suspended, but in the event of a final determination against any insurer, any overcharge by the insurer during review shall be refunded to the persons entitled thereto.

Information not to be wilfully withheld.

Section 32. **Information not to be wilfully withheld.** (a) No person, insurer or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner or to any rating organization, advisory organization, insurer or group, association or other organization of insurers, which will affect the rates, rating systems or premiums for the classes of insurance to which the provisions of this chapter are applicable.

(b) Any person, insurer, organization, group or association who fails to comply with a final order of the commissioner under this chapter shall be liable to the state in an amount not exceeding fifty dollars ($50), but if such failure be wilful, he or it shall be liable to the state in an amount not exceeding five thousand dollars ($5,000) for such failure. The commissioner shall collect the amount so payable and may bring an action in the name of the people of the state of Montana to enforce collection. Such penalties may be in addition to any other penalties provided by law.

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(c) A wilful violation of the provisions of this chapter by any person is a misdemeanor.

Payment of dividends.

Section 33. **Payment of dividends, etc., not prohibited or regulated—plan for payment not rating system.** Nothing in this chapter shall be construed to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. A plan for the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers shall not be deemed a rating plan or system.

Acts under authority of chapter.

Section 34. **Acts, etc., done by authority of chapter not violation of other laws.** No act done, action taken or agreement made pursuant to the authority conferred by this chapter shall constitute a violation of or grounds for prosecution or civil proceedings under any other law of this state heretofore or hereafter enacted which does not specifically refer to insurance.

Administration and enforcement.

Section 35. **Administration or enforcement of chapter—supplementation or modification.** The administration and enforcement of this chapter shall be governed solely by the provisions of this chapter. Except as provided in this chapter, no other law relating to insurance and no other provisions in this code heretofore or hereafter enacted shall apply to or be construed as supplementing or modifying the provisions of this chapter unless such other law or other provision expressly so provides and specifically refers to the sections of this chapter which it intends to supplement or modify.

Loss and expense experience.

Section 36. **Recording and reporting of loss and expense experience.**

(a) The commissioner shall promulgate and may modify reasonable rules and statistical plans, reasonably adapted to each of the rating systems used, and which shall thereafter be used by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rates comply with the applicable standards of this act. Such rules and plans may also provide for the

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recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of country-wide expense experience.

(b) In promulgating such rules and plans the commissioner shall give due consideration to the rating systems in use in this state and, in order that such rules and plans may be as uniform as is practicable among the several states to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system used by it.

(c) The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

Repealing clause.

Section 37. Sections 40-3601 through 40-3633, R.C.M. 1947, are hereby repealed.

Approved: March 14, 1969.

CHAPTER NO. 363

An Act Relating to Nursing Homes and Nursing Home Administrators; Providing for the Licensing of Nursing Home Administrators; to Create the Montana State Board of Examiners for Nursing Home Administrators; Fixing Its Membership, and Prescribing Its Powers, Duties and Functions; Providing Requirements for Licensure as a Nursing Home Administrator; Providing for License Fees; Creating the State Board of Nursing Home Administrators' Account; Containing a Repealing Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** For the purposes of this act, and as used herein:

"Board."

(a) The term "board" means the Montana state board

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of examiners for nursing home administrators hereinafter created.

(b) The term "nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of an extended care facility or a nursing home, whether such individual has an ownership interest in such home, and whether his functions and duties are shared with one or more individuals. "Nursing home administrator."

(c) The term "nursing home" means any institution or facility defined as such for licensing purpose under state law or pursuant to the rules and regulations for nursing homes by the Montana state department of health, whether proprietary or nonprofit, including but not limited to, nursing homes owned or administered by the state government or an agency or political subdivision thereof. "Nursing home."

Section 2. **Composition of the board.** There is hereby created the state board of examiners for nursing home administrators which shall consist of five (5) members. The executive officer of the Montana state department of health, or his designee, and the administrator of the Montana state department of public welfare, or his designee, shall serve ex officio without the power to vote as members of such board. The members of the board shall be initially appointed by the governor from a list (which list shall include representatives of nursing home administrators and university units offering programs in public health or medical or nursing home care administration) of nine (9) names submitted to the governor by the board of directors of the Montana Nursing Home Association, Inc. One (1) member shall be appointed for a term of three (3) years, two (2) members shall be appointed for a term of two (2) years, and two (2) members shall be appointed for a term of one (1) year; thereafter, the terms of all appointive members shall be three (3) years. The appointees shall be selected from a list of three (3) nominees submitted for each appointee, to the governor by the board of directors of the Montana Nursing Home Associations, Inc. Composition of board.

Any vacancy occurring in the position of an appointive member shall be filled by the governor for the unexpired term, from a list of three (3) names submitted to the governor by the board of directors of the Montana Nursing Home Association, Inc. Appointive members may be

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removed by the governor for cause after due notice and hearing. Initial appointments of members representing nursing home administrators, after this act becomes effective, shall be limited to persons who are approved by the executive officer of the state department of health as a nursing home administrator (and serving in such capacity on the effective date of this act), as such term is defined by this act. After initial appointments have been made, no person shall be eligible for appointment as a member unless he is the holder of a license as a nursing home administrator.

Qualifications for licensure.

Section 3. **Qualifications for licensure.** The board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:

(a) He is at least twenty-one (21) years of age, of good character and of sound physical and mental health; and

(b) Has satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes; laws governing the operation of nursing homes and the protection of the interests of patients therein; and the elements of good nursing home administration; or have presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a nursing home; and

(c) Has passed an examination administered by the board designed to test for competence in the subject matters referred to in subsection (b) hereof;

Provided, however, that persons meeting the standards of good character and sound physical and mental health who have been approved by the board as an "administrator" and are serving in such capacity on the effective date of this act, and who have served in this capacity continuously for at least one (1) year immediately preceding, may be granted a license as a "nursing home administrator" by waiver. All other persons applying for a license

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after the effective date of this act must meet the conditions and requirements as may be prescribed by the board. A waiver may be granted for a period of two (2) years after the effective date of this act, or until June 30, 1972, whichever is earlier, to allow an individual to meet the requirements as determined by this board. The minimum standards for qualification established by said board shall comply with the requirements, if any, set forth in Title XIX of the Social Security Act, as amended, 1967 (P.L. 90-248).

Licensing function.

Section 4. **Licensing function.** (a) The board shall license nursing home administrators in accordance with rules and regulations issued, and from time to time revised by it. A nursing home administrator's license shall not be transferrable and shall be valid until surrendered for cancellation or suspended or revoked for violation of this act or any other laws or regulations relating to the proper administration and management of a nursing home. Denial of issuance or renewal, suspension or revocation under any section of this act shall be subject to review by the board upon the timely written request for review within thirty (30) days.

(b) If the board determines that preliminery qualifications set forth in subsections 3 (a) and 3 (b) of this act, have been met before examination it may issue a temporary permit for a period of one hundred eighty (180) days or until the date of the next subsequent examination, whichever is earlier. No temporary permit shall be issued to an applicant after the date of the first examination for which he is eligible.

Fees.

Section 5. **Fees.** (a) Each person who applies for licensure, whether by waiver, examination or reciprocation, shall be required to pay a fee of twenty-five dollars ($25) at the time of such application.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount to be fixed by the board, not to exceed one hundred dollars ($100). A license shall expire on December 31, in the year for which it is issued, and shall be renewable annually upon timely payment of the license fee.

Fund created.

Section 6. **Fund created.** All fees collected under the provisions of this act shall be paid monthly to the state

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treasurer, who shall keep the same in a special account to be known as the state board of examiners for nursing home administrators' account in the earmarked revenue fund, which account may be used and expended by the state department of health, in addition to other moneys appropriated to carry out this act, to pay the compensation and expenses of members of the board, and other expenses necessary for the board to administer and carry out the provisions of this act.

Organization and compensation of board.

Section 7. **Organization and compensation of board.** The board shall elect from its membership a chairman, vice-chairman and secretary-treasurer, and shall adopt rules and regulations to govern its proceedings. As compensation for his services, each member shall receive twenty-five dollars ($25) a day, in addition to expenses, for each day of actual service in the performance of his duties. All members shall be allowed necessary travel and living expenses, as may be approved by the board, which shall be payable in the same manner as travel expense of other state officials.

Jurisdiction of board.

Section 8. **Exclusive jurisdiction of board.** The board shall have exclusive authority to determine the qualifications, skill and fitness of any person to serve as an administrator of a nursing home under the provisions of this act, and the holder of a license under the provisions of this act shall be deemed qualified to serve as the administrator of a nursing home for all purposes.

Duties of board.

Section 9. **Duties of the board.** The board shall have the duty and responsibility to:

(a) Develop, impose and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators shall be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administraton, are qualified to serve as nursing home administrators.

(b) Develop and apply appropriate techniques, including examination and investigations, for determining whether individuals meet such standards.

(c) Issue licenses to individuals, after application of

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such techniques, determined to meet such standards, and for cause, after due notice and hearing, to revoke or suspend licenses previously issued by the board in any case where the individual holding such license is determined substantially to have failed to conform to the requirements of such standards. Provided, however, the board may, in its discretion, defer execution of its order of revocation or suspension for the purpose of permitting continuity of care for patients when the need for such continuity of care outweighs any harm or danger which might result from the failure of such nursing home administrator to be licensed thereby resulting in the necessary closure of a nursing home.

(d) Establish and implement procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards.

(e) Upon receipt of a written and signed complaint, an investigation of the matter contained in the complaint shall be initiated. At its next meeting, the complaint shall be presented to the board together with the report of investigation and recommendations and on the basis thereof, the board shall determine whether to bring charges and provide for a hearing.

(f) Conduct a continuing study and investigation of nursing home administrators within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes.

(g) Conduct, or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this act, and make provisions for the conduct of such courses and their accessibility to residents of this state, unless it finds that there are sufficient number of courses conducted by others within this state to meet the needs of the state. In lieu thereof the board may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this act.

Section 10. **Renewal of license.** Every holder of a nursing home administrator's license shall renew it an- Renewal of license.

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nually by payment of the required fee for the next subsequent year, prior to the expiration of his currently valid license on December 31. Renewals of licenses shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such a manner, or under circumstances, as would constitute grounds for suspension or revocation of a license.

Reciprocity.

Section 11. **Reciprocity.** The board may issue at its discretion a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified.

Violation.

Section 12. **Misdemeanor.** It shall be unlawful and constitute a misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he is the holder of a license as a nursing home administrator, issued in accordance with the provisions of this act.

Professional license taxes.

Section 13. **Professional license taxes not prohibited.**

No provision of this act shall be construed as prohibiting or preventing a municipality or county from fixing, charging, assessing or collecting any license fee, registration fee, tax or gross receipt tax on any profession covered by this act or upon any related profession or anyone engaged in any related profession governed by the provisions of this act.

Repealing clause.

Section 14. **Laws in conflict repealed.** All acts and parts of acts in conflict herewith are hereby repealed.

Judicial review.

Section 15. **Judicial review.** Any order or decision of the board relating to examination and licensure or revocation or suspension of license may be reviewed by the district court upon timely application to such court.

Effective date.

Section 16. This act is effective January 1, 1970.

Approved: March 14, 1969.

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CHAPTER NO. 364

An Act to Amend Section 75-1813, R.C.M. 1947, Relating to the Provision of an Optional Basis to School Districts for Consolidation or Annexation; Such Optional Basis Providing the School Districts With a Basis of Consolidation or Annexation With or Without the Assumption of Bonded Indebtedness; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1813, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-1813. **Consolidated districts—procedure in event of consolidation—annexation—bonded debts.** Any two or more school districts lying in one county may be consolidated, either by the formation of a district by consolidation, or by the annexation of one or more districts to an existing district, as hereinafter provided. *When school districts plan to proceed under the provisions of this section, they must, jointly, establish whether such consolidation proposal shall be made with or without assumption of bonded indebtedness. Dependent upon such joint decision, one of the two following options shall be used:* Consolidated districts.

A. Option A—When two or more school districts lying in one county wish to consolidate and assume each other's bonded indebtedness, or when one or more school districts in one county wish to annex their territory to an existing district and assume its bonded indebtedness, option A shall be used.

B. Option B—When two or more school districts wish to consolidate and not assume each other's bonded indebtedness, or when one or more school districts in one county wish to annex their territory to an existing district and not assume its bonded indebtedness, option B shall be used.

OPTION A Option A.

When severally the boards of trustees of two (2) or more school districts, in regular meeting called for the publicly announced purpose of considering plans for consolidation of said two (2) or more districts and by majority vote of each board of trustees acting separately shall ask

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for district consolidation of each and all such petitioning boards, the county superintendent of schools having jurisdiction of such districts, within not less than twenty (20) nor more than thirty (30) days, shall cause notice of election to be given by the clerk in each district seeking election on such proposed consolidation of districts. Such notice is to be posted in three (3) public places in each such district and published in a newspaper published in the county and having general circulation in the school districts, giving the time and place or places specified in each notice to vote on the question of consolidation *with assumption of bonded indebtedness.*

Consolidation of any two (2) or more school districts lying in one county may also be effected by the people of the districts concerned whenever a petition shall be directed to and received by the county superintendent of schools, and shall in each such district seeking consolidation be signed by not fewer than twenty per cent (20%) of the qualified electors in such district. The county superintendent shall within not less than twenty (20), nor more than thirty (30) days, cause notice to be given as provided in the next preceding paragraph.

The votes at such election shall be by ballot, which shall read *'For consolidation with assumption of bonded indebtedness' or 'Against consolidation with assumption of bonded indebtedness.'* At such election those qualified electors whose names appear upon the last preceding completed assessment roll shall be furnished ballots printed upon white paper and all other qualified electors shall be furnished ballots printed upon paper distinctly yellow in color. Separate ballot boxes shall be used for the receipt of voted ballots so that the white ballots will be segregated from the yellow ballots. The judge or judges at such election shall, within ten (10) days thereafter, certify the result of the vote to the county superintendent of the county in which the district lies.

If both the majority of the total votes cast in each district holding such election be for consolidation, and the majority of the votes cast by those qualified electors whose names appear upon the last preceding completed assessment roll in each district holding such election be for consolidation, provided that at least a percentage of such electors in each district, equal to the percentage required

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in section 75-3914, R.C.M. 1947, for approval of a bond issue, have voted, it carries, and the superintendent, within ten (10) days thereafter, shall make a proper order to give effect to such vote, and shall thereafter transmit a copy thereof to the county clerk and recorder and to the clerk of each district affected. If the order be for the formation of a new district, it shall specify the number of such district, and the county superintendent shall appoint trustees and designate the terms of office to be served by each until subsequent school elections shall determine their successors.

At the regular election succeeding there shall be elected by the regularly qualified electors the number of trustees required to replace those whose terms are expiring. The election of trustees and terms shall be the same as for other districts under the general school laws.

When, in the interest of reducing cost of operation or improving the school service for pupils, a board of trustees of a third class district seeking to annex its territory to a third class district or districts maintaining a high school, a second class district or districts, or a first class district or districts or any combination thereof; a board of trustees of a third class district maintaining a high school seeking to annex its territory to a second class district or districts or a first class district or districts or any combination thereof; or the board of trustees of a second class district seeking to annex its territory to a first class district or districts, shall by majority vote of its members or at the request of twenty per cent (20%) of the qualified electors of the districts indicated by a petition, ask the county superintendent of schools to annex the territory and property of such district to any district or districts as herein provided. As the board resolution or petition requests, the county superintendent shall, upon an approving vote of the trustees of the district or districts with which the annexation is sought, authorize an election in the petitioning district on such annexation within not less than twenty (20) nor more than thirty (30) days. Notice of such election shall be given in the same manner and the same general plan for balloting shall be utilized on the question of district annexation by the electors of the petitioning district that is authorized herein for district consolidation.

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The ballot shall in this case be *'For annexation with assumption of bonded indebtedness'* and *'Against annexation with assumption of bonded indebtedness.'* Should the action of the boards of trustees approving the plan of annexation be approved by majority vote of electors of the district or districts seeking election on the issue and by majority vote of the electors of the district or districts seeking election on the issue whose names appear upon the last completed assessment roll, provided that at least a percentage of such electors in each district, equal to the percentage required in section 75-3914, R.C.M. 1947, for approval of a bond issue, have voted, then the consolidation sought shall be effected by order of the county superintendent of schools within ten (10) days after such election. In the event of a disapproving vote by majority of votes cast by all the electors or by the electors whose names appear on the last preceding completed assessment roll or if the percentage of the electors whose names appear upon the last preceding completed assessment roll and who vote in either of such voting districts is less than the percentage required in section 75-3914 for approval of a bond issue, the proposed annexation shall fail.

In case of annexation of any district to any existing district or districts, as herein provided, the proper officers of the annexed districts, within ten (10) days from the receipt of a copy of the annexation order, shall turn over to the proper officers of the district or districts to which it is annexed, all records, funds, and effects of such annexed district. When a district is proportionately annexed, as provided herein, section 75-1808, Revised Codes of Montana, 1947, controls. In case of the formation of a district by consolidation the proper officers of the discontinued district or districts in like manner, within ten (10) days after the organization of the district by consolidation, shall turn over the records, funds, and effects of such old district to the proper officers of the district created by consolidation.

In case of creation of a district by annexation, the title to schoolhouses and sites of the petitioning district shall vest in the receiving district or districts in which the schoolhouses and sites are located. The officers of the receiving district or districts shall continue to hold office until the end of the terms for which they were duly elected

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and their successors shall be regularly elected as provided by law.

School districts created by consolidation or annexation shall be governed by the general school laws of the state.

Bonded indebtedness of any district resulting from merger by consolidation or annexation shall become the indebtedness and obligation of the consolidated district and be paid by levies imposed upon property therein, provided that when a third class district is proportionately annexed to any number of first or second class districts, as herein provided, the bonded indebtedness, if any, of such third class districts shall become the bonded indebtedness of such first or second class districts in the same proportions as the taxable valuation of each annexed portion bears to the total taxable valuation of such third class district.

OPTION B Option B.

When severally the boards of trustees of two (2) or more school districts, in regular meeting called for the publicly announced purpose of considering plans for consolidation of said two (2) or more districts and by majority vote of each board of trustees acting separately shall ask for district consolidation of each and all such petitioning boards, the county superintendent of schools having jurisdiction of such districts, within not less than twenty (20) nor more than thirty (30) days, shall cause notice of election to be given by the clerk in each district seeking election on such proposed consolidation of districts. Such notice is to be posted in three (3) public places in each such district and published in a newspaper published in the county and having general circulation in the school districts, giving the time and place or places specified in each notice to vote on the question of consolidation without assumption of bonded indebtedness.

Consolidation of any two (2) or more school districts lying in one county may also be effected by the people of the districts concerned whenever a petition shall be directed to and received by the county superintendent of schools, and shall in each such district seeking consolidation be signed by not fewer than twenty per cent (20%) of the qualified electors in such district. The county

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superintendent shall within not less than twenty (20), nor more than thirty (30) days, cause notice to be given as provided in the next preceding paragraph.

The votes at such election shall be by ballot, which shall read 'For consolidation without assumption of bonded indebtedness' or 'Against consolidation without assumption of bonded indebtedness.' The judge or judges at such election shall, within ten (10) days thereafter, certify the result of the vote to the county superintendent of the county in which the district lies.

If the majority of the votes cast in each district holding such election be for consolidation, it carries, and the superintendent, within ten (10) days thereafter, shall make a proper order to give effect to such vote, and shall thereafter transmit a copy thereof to the county clerk and recorder and to the clerk of each district affected. If the order be for the formation of a new district, it shall specify the number of such district, and the county superintendent shall appoint trustees and designate the terms of office to be served by each until subsequent school elections shall determine their successors.

At the regular election succeeding there shall be elected by the regularly qualified electors the number of trustees required to replace those whose terms are expiring. The election of trustees and terms shall be the same as for other districts under the general school laws.

When, in the interest of reducing costs of operation or improving the school service for pupils, a board of trustees of a third class district seeking to annex its territory to a third class district or districts maintaining a high school, a second class district or districts, or a first class district or districts or any combination thereof; a board of trustees of a third class district maintaining a high school seeking to annex its territory to a second class district or districts or a first class district or districts or any combination thereof; or the board of trustees of a second class district seeking to annex its territory to a first class district or districts, shall by majority vote of its members or at the request of twenty per cent (20%) of the qualified electors of the districts indicated by a petition, ask the county superintendent of schools to annex the territory and property of such district to any district or districts as herein provided. As the board resolu-

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tion or petition requests, the county superintendent shall, upon an approving vote of the trustees of the district or districts with which the annexation is sought, authorize an election in the petitioning district on such annexation within not less than twenty (20) nor more than thirty (30) days. Notice of such election shall be given in the same manner and the same general plan for balloting shall be utilized on the question of district annexation by the electors of the petitioning district that is authorized herein for district consolidation.

The ballot shall in this case be 'For annexation without assumption of bonded indebtedness' and 'Against annexation without assumption of bonded indebtedness.' Should the action of the boards of trustees approving the plan of annexation be approved by majority vote of electors of the district seeking annexation then the annexation sought shall be effected by order of the county superintendent of schools within ten (10) days after such election. In the event of a disapproving vote by majority of votes cast the proposed annexation shall fail.

In case of annexation of any district to any existing district or districts, as herein provided, the proper officers of the annexed districts, within ten (10) days from the receipt of a copy of the annexation order, shall turn over to the proper officers of the district or districts to which it is annexed, all records, funds, and effects of such annexed district. When a district is proportionately annexed, as provided herein, section 75-1808, R.C.M. 1947, controls. In case of the formation of a district by consolidation the proper officers of the discontinued district or districts in like manner, within ten (10) days after the organization of the district by consolidation, shall turn over the records, funds, and effects of such old district to the proper officers of the district created by consolidation.

In case of creation of a district by annexation, the title to schoolhouses and sites of the petitioning district shall vest in the receiving district or districts in which the schoolhouses and sites are located. The officers of the receiving district or districts shall continue to hold office until the end of the terms for which they were duly elected and their successors shall be regularly elected as provided by law.

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School districts created by consolidation or annexation shall be governed by the general school laws of the state.

Bonded indebtedness of any district resulting from merger by consolidation, or annexation shall remain the indebtedness and obligation of the district which originally incurred such bonded indebtedness and be paid by levies imposed upon property therein."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved: March 14, 1969.

CHAPTER NO. 365

An Act to Provide That a Prayer May Be Used to Open the School Day in the Public Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Prayer may be used to open the school day.

Section 1. Any member of the teaching or administrative staff of a public school may open the school day with a prayer.

Approved: March 14, 1969.

CHAPTER NO. 366

An Act to Establish a Statewide Building Construction Standards; Amending Sections 66-2416, 66-2802, 69-4117, 69-5212, 69-5213, 69-5216, 82-1202, 82-1202.1, and 82-1202.2, R.C.M. 1947; Repealing Sections 66-2424, 66-2818, 69-2101 Through 69-2103, 69-3701 Through 69-3719, and 75-3103, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Statewide building construction standards established.

Section 1. It is essential that building codes be adopted and enforced to protect the health and safety of the residents of this state, but buildings should be permitted to be constructed at the least possible cost consistent with recognized standards of health and safety. Among the factors complicating construction are various laws, ordinances, rules, regulations, and codes regulating the con-

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struction of buildings and the use of materials in those buildings. Many requirements are obsolete and unnecessarily complex. They serve to make construction more complex, without providing correlative benefits or safety to owners, builders, tenants, and users of buildings. It is the purpose of this act to institute the preparation of a state code of building construction to provide, so far as may be practicable, basic and uniform performance standards. Thus, while establishing reasonable safeguards for the health and safety of the occupants and users of buildings, the use of modern methods, devices, materials, and techniques will be encouraged. This should be effective in protecting the public interest in the field of construction.

Section 2. As used in this act, unless the context clearly indicates otherwise:

"Council."

(1) "Council" means the state building code council created by this act.

"Municipality."

(2) "Municipality" means any incorporated city or town and its jurisdictional area as defined by subsection (13) of this section.

"Building regulations."

(3) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof, enacted or adopted by the state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and installation of equipment in buildings. The term does not include zoning ordinances.

"Department."

(4) "Department" means the department of administration.

"Local building department."

(5) "Local building department" means the agency or agencies of any municipality charged with the administration, supervision, or enforcement of building regulations, approval of plans, inspection of buildings, or the issuance of permits, licenses, certificates and similar documents, prescribed or required by state or local building regulations.

"State agency."

(6) "State agency" means any state officer, depart-

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ment, board, bureau, commission, or other agency of this state.

"Building." (7) "Building" means a combination of any materials, whether mobile, portable, or fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof."

"Equipment." (8) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment, elevators, dumb waiters, escalators, and other mechanical additions or installations.

"Construction." (9) "Construction" means the original construction, and equipment of buildings, and requirements or standards relating to or affecting materials used including provisions for safety and sanitary conditions.

"Owner." (10) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm, or corporation, in control of a building.

"Local legislative body." (11) "Local legislative body" means the council or commission charged with governing the municipality.

"State building code." (12) "State building code" means the state building code provided for in section 8 of this act or any portion of the code of limited application, and any of its modifications or amendments.

"Municipal jurisdictional area." (13) "Municipal jurisdictional area" means the area within the limits of an incorporated municipality unless the area is extended at the written request of a municipality. Upon request the council may approve extension of the jurisdictional area to include all or part of the area within four and one-half (4½) miles of the corporate limits of a municipality, measured in a straight line in a horizontal plane.

"Public place." (14) "Public place" means any place which a municipality or state maintains for the use of the public, or a place where the public has a right to go and be.

Building code council. Section 3. (1) There is hereby created a state building code council of nine (9) members as follows:

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(a) five (5) members appointed by the governor and who serve at his pleasure including one (1) member who is a licensed architect; one (1) member who is a professional engineer; one (1) member who is a building contractor; one (1) member who is a municipal building inspector; and one (1) member of the public who does not hold any elective or other public office and who is not a licensed architect, professional engineer, or building contractor;

(b) four (4) members as follows:

(i) the executive officer of the department of health or a person designated by him;

(ii) one (1) member named by the state electrical board;

(iii) one (1) member named by the board of plumbing examiners;

(iv) the state fire marshal or a person appointed by him.

Term.

(2) Members appointed under subsection (1) (b) of this section shall serve for a term fixed by the appointing authority of not more than three (3) years and the members may be reappointed.

(3) The state controller shall serve as secretary of the council. The council shall elect a chairman from among its members.

(4) A member of the council shall receive reimbursement for necessary and actual expenses incurred in his official service on the council. Council members who are not government employees shall receive twenty dollars ($20) per diem for each day of official service on the council.

(5) The council shall meet at the call of the chairman or at the written request of three (3) members, but it shall meet at least once each year.

Outside municipalities.

Section 4. (1) Outside municipalities and their jurisdictional area as defined by section 2, subsection (13) of this act, this act applies to "public places" as defined in section 2, subsection (15) of this act.

(2) Where good and sufficient cause exists, a written

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request for limitation of the state building code may be filed with the state controller for filing as a permanent record in his office. He shall submit the request to the council. The council may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings, according to use, or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based upon size, population density, special conditions prevailing therein, or other factors which make differentiation or separate classification or regulation necessary, proper, or desirable.

Administration of act.

Section 5. As directed by the council, the state controller shall administer this act through a division of the department of administration.

Duties of state controller.

Section 6. The state controller shall, under the guidance of the council:

(1) issue orders necessary to effectuate the purposes of this act and enforce the orders by all appropriate administrative and judicial proceedings;

(2) enter, inspect, and examine buildings or premises necessary for the proper performance of his duties under this act or appoint deputies to enter, inspect and examine.

(3) study the operation of the state building code, local building regulations, and other laws related to the construction of buildings to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health and safety;

(4) recommend tests or require the testing and approval of materials, devices, and methods of construction to ascertain their acceptability under the requirements of the state building code and issue certification of such acceptability;

(5) appoint experts, consultants, technical advisers, and advisory committees for assistance and recommendations relative to the formulation and adoption of the state building code;

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(6) advise, consult, and cooperate with the council and other agencies of the state, local governments, industries, and interested persons or groups;

(7) make rules for the organization and internal management of the division.

Objectives and standards of code.

Section 7. The state building code shall be designed to effectuate the general purposes of this act and the following specific objectives and standards to:

(1) provide reasonably uniform standards and requirements for construction and construction materials, consonant with accepted standards of design, engineering and fire prevention practices;

(2) permit to the fullest extent feasible, the use of modern technical methods, devices, and improvements which tend to reduce the cost of construction consistent with reasonable requirements for the health and safety of the occupants or users of buildings;

(3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and requirements which tend to increase unnecessarily construction costs or retard unnecessarily the use of proven new materials which have been found adequate through experience or testing, or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction;

(4) insure that buildings constructed with public funds are accessible to, and functional for, physically handicapped persons where practicable and feasible.

Adoption of national building codes.

Section 8. (1) The council shall adopt by reference nationally recognized building codes in whole or in part, amend, and repeal rules relating to the construction of all buildings or classes of buildings or the installation of equipment in those buildings, and may by rule prescribe standards or requirements for materials to be used in buildings including provisions dealing with safety and sanitation. The rules, when adopted as provided in this act, constitute the "state building code" and shall be acceptable for the buildings to which it is applicable.

(2) The council may hold hearings relating to the

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administration of this act and compel the attendance of witnesses and the production of evidence.

(3) Except as provided in subsection (4) of this section, no rule and no amendment or repeal of the state building code shall take effect until after a public hearing by the council. Notice of the time and place of the hearing shall be published at least three (3) times in at least two (2) newspapers of general circulation throughout the state. The last published notice shall appear not less than fifteen (15) days before the public hearing.

(4) If a hearing has been held by the state fire marshal, state plumbing board, state board of health, or state electrical board on a proposed rule relating to building and equipment standards in their respective fields, a public hearing by the council is not required. The proposed rule is effective upon approval of the council and filing with the secretary of state as a part of the state building code.

(5) If a rule relating to building or equipment standards is proposed by the state fire marshal, state plumbing board, state board of health, or state electrical board which conflicts with the state building code, the council shall modify the proposed rule or the state building code to resolve the conflict after consultation with the state agencies affected.

(6) Nothing in this section requires a hearing prior to the issuance of an emergency order pursuant to the provisions of this act.

(7) The text of any proposed rule or modification, amendment, or repeal of a rule shall be made available for inspection at the office of the department and shall be distributed to state agencies, local building departments, state and municipal law officers, and to other interested persons or groups upon request.

(8) Every rule or modification, amendment, or repeal of a rule adopted by the council shall state the date on which it takes effect.

(9) Every rule or modification, amendment, or repeal of a rule, shall be certified by the council and transmitted to the secretary of state for filing in that office. Upon filing, the rule has the force and effect of law, and the state building code is amended to that extent. Copies shall be

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sent by the state controller to all state and municipal officers having jurisdiction over the construction of buildings affected. Copies shall also be mailed to any person upon request.

(10) The provisions of this section shall not apply to any rule applicable solely to the organization or internal management of the department.

Municipal building code.

Section 9. (1) The local legislative body of a municipality may adopt a municipal building code by ordinance to apply to the municipal jurisdictional area. A municipal building code shall require standards equal to those of the state building code or higher standards. A municipal building code must cover all general areas included in the state building code.

(2) If a municipality does not adopt a municipal building code as provided in subsection (1) of this section, the state building code applies within the municipal jurisdictional area.

(3) The council shall determine whether a municipal building code has standards equal to those of the state building code or higher standards and notify municipalities immediately if any municipal standards are below the state standards.

(4) If a municipal code is adopted, a copy of the code and any amendments to the code shall be filed with the council.

Permit.

Section 10. After the effective date of this act, any person who desires to construct a building which is subject to the provisions of this act must apply for a permit from the appropriate authorities.

Power of council.

Section 11. (1) The council has the power on satisfactory proof, after a public hearing to:

(a) vary or modify, in whole or part, the application of any provision or requirement of the state building code if strict compliance would cause any undue hardship; but no variance or modification shall affect adversely provisions for health, safety, and security and equally safe and proper alternatives may be prescribed therefor;

(b) reverse, modify, or annul, in whole or part, any ruling, direction, determination, or order of any state

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agency affecting or relating to the construction of any building, the construction of which is pursuant or purports to be pursuant to the provisions of the state building code;

(c) review within thirty (30) days after disapproval, any application for permission for the construction of a building pursuant to the provisions of the state building code, or plans or specifications submitted in connection therewith;

(d) reverse, modify, or annul the disapproval in whole or part;

(e) within thirty (30) days, make a determination that the application or plans or specifications are in compliance with the provisions of the state building code. If this determination is made, the officer charged with the duty shall issue any permit, license, certificate, authorization, or other document required for the construction.

(2) An application for a varience, modification, reversal, annulment, or review may be made by any person aggrieved and pursuant to the procedure, conditions and rules as prescribed by the council. The council shall fix a time for the hearing of an application and shall require that due notice of the time and place of the hearing be given to the applicant, the state agency or other person involved, and other aggrieved persons concerned. Any person involved or any authorized representative of any state agency may appear at the hearing and be heard on the application.

(a) The council or its secretary has the power to administer oaths, certify all official acts and issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any hearing in any part of the state in like manner and to the same extent as courts of record. Service of said subpoenas shall be in a manner prescribed by the Montana Rules of Civil Procedure. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the council, or its secretary may petition the district court in which the hearing is pending, setting forth that due notice has been given of the time and place fixed for the attendance of said witness, or the production of said papers, and that the witness has been served as required, and that the witness

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has failed and refused to attend, or produce the papers required by the subpoena before the council in the hearing in the notice and subpoena, or has refused to answer questions propounded to him in the course of such hearing, and ask an order of said court compelling the witness to attend or testify or produce said papers before the council. The court shall enter an order directing the witness to appear before the court at a time and date not more than ten (10) days from the date of the order and then and there show cause why he had not attended or testified or produced such papers before the council. A copy of such order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the council or its secretary and regularly served, the court shall thereupon enter an order that said witness appear at the time and place fixed in said order and testify or produce the required papers and upon failure to obey said order said witness shall be dealt with as for contempt of court.

(b) An application for a variance, modification, reversal, annulment, or review shall stay all proceedings in furtherance of the action appealed from unless there is a showing by the state agency that a stay would involve imminent peril to life or porperty.

(c) The council, in hearings conducted under this section, shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure.

(d) Applications shall be decided on promptly. In every case the council shall state generally the reason or reasons for its decision.

(e) All decisions of the council require concurrence of at least five (5) of its members to become effective.

(f) The decision of the council shall state the date on which it takes effect, and a certified copy thereof shall be filed as a public record in the office of the department and a copy shall be sent to the parties and to all state agencies affected.

(g) The council shall prepare a written record of the hearing. All evidence, including records and documents in the possession of the council of which it desires to avail itself in deciding the question shall be offered

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and made a part of the record of the hearing, and no other information or evidence shall be considered in the decision of the application.

Judicial review.

Section 12. **Judicial review.** (1) Within thirty (30) days after the mailing of notice of a decision by the council, any party in interest who appeared before the council may, in a proceeding in the nature of a writ of review, apply to the district court in the district in which the building is located for review of the decision of the council. Such application shall not operate to stay or postpone the enforcement of the decision of the council except as the council or court may direct.

(2) The application must be made on affidavit and the court may require notice of the application to be given to the council and all adverse parties, if any, or may grant an order to show cause why review should not be allowed.

(3) A copy of the application and all accompanying papers shall be served upon the council and upon all adverse parties, if any there shall be, in the manner as a summons in a civil action.

(4) The court, after proper showing, may order the council at a specified time and place to fully certify the entire record of the hearing had before it, including copies of all documents and records in its possession used in reaching its decision, that the same may be reviewed.

(5) When a full return has been made, the court must hear the parties, or such of them as may attend for that purpose, and may thereupon give judgment either affirming, or annulling or modifying the proceedings below.

(6) Any party to the proceedings in the district court may appeal from its decision to the supreme court of the state of Montana in the same manner as appeals are now taken in other civil actions.

(7) Upon a final determination, the council shall enter a decision in accordance with the determination. A record of all decisions of the council, properly indexed, shall be kept in the office of the state controller and shall be open to public inspection at all times during business hours.

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Appellate procedure for municipal code.

Section 13. If a municipality adopts a municipal building code, it shall also establish an appeal procedure by ordinance which is acceptable to the council. If a municipality does not adopt a code, appeals on the application of the state building code within the municipal jurisdictional area shall be made to the council.

Responsibility of municipality.

Section 14. The examination and approval or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings and the administration and enforcement of building regulations within the municipal jurisdictional area shall be the responsibility of the municipalities of the state. Each municipality may:

(1) Examine and approve or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the provisions of the state or municipal building code, and direct the inspection of the buildings during and in the course of construction.

(2) Require that construction of buildings be in accordance with the applicable provisions of the state or municipal building code, subject to the powers of variance or modification granted to the state building code council.

(3) Order in writing the remedying of any condition found to exist in, on, or about any building in violation of the state or municipal building code. Orders may be served upon the owner or his authorized agent personally or by sending by registered mail a copy of the order to the owner or his authorized agent at the address set forth in the application for permission for the construction of the building. Any local building department, by action of an authorized officer, may grant in writing such time as may be reasonably necessary for achieving compliance with the order.

(4) Issue certificates of occupancy, permits, licenses, and such other documents in connection with the construction of the buildings as required. A certificate of occupancy for a building constructed in accordance with the provisions of the state or municipal building code shall certify that the building conforms to the require-

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ments of the building regulations applicable to it. Every certificate of occupancy, unless and until set aside or vacated by a court of competent jurisdiction, is binding and conclusive upon all municipal agencies, as to all matters set forth and no order, directive, or requirement at variance therewith may be made or issued by any other state or municipal agency.

(5) Make, amend, and repeal rules for the administration and enforcement of the provisions of this section, and for the collection of reasonable fees, which shall be comparable to fees imposed or prescribed by existing local building regulations.

(6) Prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state or municipal building code.

Power of district court to enjoin construction.

Section 15. The construction or use of the building in violation of any provision of the state or municipal building code or any lawful order of a state building official or a local building department may be enjoined by a judge of the district court in the judicial district in which the building is located. This section will be governed by the Montana Rules of Civil Procedure.

Failure to comply.

Section 16. Any person, served with an order pursuant to the provisions of this act, who fails to comply with the order not later than thirty (30) days after service or within the time fixed by the state controller or a local building department for compliance, whichever is the greater, or any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any person taking part or assisting in the construction or use of any building who knowingly violates any of the applicable provisions of the state building code or a municipal building code is guilty of a misdemeanor.

Rules and standards in effect.

Section 17. (1) Rules and standards adopted by the state board of health, state electrical board, board of plumbing examiners, and state fire marshal which are in force on the effective date of this act shall continue in force unless changed by the council.

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(2) Except as provided in subsection (3) of this section, building and equipment standards not in force on the effective date of this act shall not apply to buildings existing or under construction on July 1, 1969.

(3) If any building presents a clear and present danger to human life, this act shall apply although the buildings existed or were under construction on July 1, 1969.

(4) The council shall determine if a building is under construction on July 1, 1969, based upon uniform criteria established by the council.

Section 18. Section 66-2416, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2416. **Minimum standards—state plumbing code—fee for copy of code.** *(1)* The state plumbing board shall, by *rule*, prescribe minimum standards which shall be uniform and which standards shall thereafter be effective for all new plumbing installations; such *rules* shall contain the minimum requirements for plumbing as set forth in the American standard national plumbing code, numbered ASA A40.8-1955, and published by the American society of mechanical engineers. *Except as provided in subsection (2) of this section,* upon approval of the state board of health and the attorney general and their legal publication, *the rules* shall be the state plumbing code and shall have the force of law. A copy of the code shall be supplied to each person licensed under the provisions of *sections 66-2401 to 66-2411 R.C.M. 1947,* of the laws of the state of Montana, or any other interested person, for a fee of no more than five dollars *($5).* Minimum standards of state plumbing code.

(2) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state."

Section 19. Section 66-2802, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2802. **Purpose.** *(1)* The purpose of this act is to protect the health and safety of the people of Montana from the danger of electrically caused shocks, fires and explosions and to protect property from the hazard of electrically caused fires and explosions, and to estab- Purpose.

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lish a procedure for determining where and by whom electrical installations are to be made and to assure the public that persons making electrical installations are qualified, and that the electrical installations and electrical products made and sold within this state meet minimum safety standards. From and after the taking effect of this act, all installations in the state of Montana of wires and equipment to convey electric current and installations of apparatus to be operated by such current, except as hereinafter provided, shall be made substantially in accord with the National Electrical Code, as approved by the American standards association, relating to such work as far as the same covers both fire and personal injury hazards, and as the National Electrical Code shall be amended, revised, compiled and published from time to time and as such amendments or revisions are adopted by the board.

(2) Rules and standards relating to buildings and equipment covered by the state or a municipal building code are not effective until approved by the state building code council and filed with the secretary of state."

Amending clause.

Section 20. Section 69-4117, R.C.M. 1947, is amended to read as follows:

Schoolhouses—rules.

"69-4117. **Schoolhouses—rules for lighting, heating, ventiliation and sanitary arrangements.** *(1)* The state board shall adopt rules for lighting, heating, ventilation, plumbing and sanitary arrangements for schoolhouses. Before any schoolhouse is constructed, plans must be submitted to the department for approval. A schoolhouse must conform to the rules adopted by the state board before being used.

(2) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state."

Amending clause.

Section 21. Section 69-5212, R.C.M. 1947, is amended to read as follows:

Alteration or addition—approval of plans.

"69-5212. **Alteration or addition to facility—approval of plans and specifications by the state board of health.** The state board may adopt rules to require an applicant or licensee who contemplates alteration or addition to a

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facility to submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction. *Approval may be given only if the plans and specifications conform to the state or the municipal building code which applies to the facility.*"

Amending clause.

Section 22. Section 69-5213, R.C.M. 1947, is amended to read as follows:

Rules and standards for long-term care facilities.

"69-5213. **Rules and standards for long-term care facilities—adoption and publication by the state board of health.** (1) *Subject to the provisions of subsection (4) of this section, the* board shall adopt and publish rules and minimum standards for all long-term care facilities distinguishing between those for nursing care, personal care, sheltered care, and facilities providing combinations thereof.

(2) Standards shall relate to:

(a) location and construction of the facility including plumbing, heating, lighting, ventilation, and other conditions affecting the health, safety, or comfort of residents;

(b) number and qualifications of personnel;

(c) sanitary conditions including water supply, sewage disposal, food handling, laundries, and general hygiene;

(d) diet based on good nutritional practice, needs of residents, and recommendations of attending physicians;

(e) fixtures and equipment essential to the health and safety of residents;

(f) age and physical requirements for admission;

(g) records of residents' medical history, funds, property, and contract with the operator or manager;

(h) medical supervision and resident care including use of physical restraints;

(i) reporting of contagious diseases, epidemics, or food poisoning;

(j) administration including the storage and handling of medications, narcotics, barbiturates, and compressed gases;

(k) visiting hours and areas.

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(3) All long-term care facilities of nonfire-resistant construction, of two (2) stories or more in height having ten (10) or more residents, must have an automatic sprinkler system approved by the state fire marshal. The fire marshal shall furnish the state board with certificates of compliance with fire protection rules and standards.

(4) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state.''

Amending clause.

Section 23. Section 69-5216, R.C.M. 1947, is amended to read as follows:

Rules and standards—licensed facilities.

"69-5216. **Rules and standards for facilities licensed under this chapter.** With the advice of the hospital and long-term care facility advisory council, the state board shall adopt rules and standards for facilities licensed under this chapter. *Rules and standards for buildings and equipment must conform to the state or municipal building code which applies to the facility.* The department shall extend a reasonable time for compliance with rules after adoption by the state board.''

Amending clause.

Section 24. Section 82-1202, R.C.M. 1947, is amended to read as follows:

Powers of state fire marshal.

"82-1202. **Powers of the state fire marshal.** The state fire marshal shall: (1) Make at least one inspection during every year, of each state institution, and submit a copy of the report to the state department of institutions with recommendations in regard to fire prevention, fire protection and to the public safety.

(2) Make at least one inspection during every year, of each unit of the Montana university system, and submit a copy of the report to the executive secretary of the university system with recommendations in regard to fire prevention, fire protection and to the public safety.

(3) Inspect public, business, or industrial buildings and require conformance to law or rules promulgated under the provisions of this act.

(4) Do all things necessary and convenient for carrying into effect the fire prevention laws of this state gov-

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erning this act and may, *adopt* necessary rules for safeguarding lives and property from the hazards of fire and explosion after consultation with the fire prevention advisory commission and approval by the commissioner of insurance. No rule shall become effective until after a public hearing held in the manner described in *82-1202.2 R.C.M. 1947.* If fire prevention rules are violated, *the fire marshall* may maintain an action to enjoin the use of all or a portion of a building or facility, or restrain a specific activity, until there is compliance with the rules.

(5) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state."

Section 25. Section 82-1201.1, R.C.M. 1947, is amended to read as follows: Amending clause.

"82-1202.1 **Rules promulgated by state fire marshal—adoption of other standards.** (1) Rules promulgated by the state fire marshal by authority of section 82-1202, R.C.M. 1947, shall establish minimum standards of fire protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of flammable finishes; explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; flammable motion picture film, combustible fibres; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards. Rules of state fire marshal.

(2) If rules relate to building and equipment standards covered by the state or a municipal building code, the rules are effective upon approval of the state building code council and filing with the secretary of state.

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(3) Standards of the National Fire Protection Association, United States Bureau of Standards, American Insurance Association Standards may be adopted in whole or in part by reference."

Amending clause.

Section 26. Section 82-1202.2, R.C.M. 1947, is amended to read as follows:

Notice of hearing—publication—rules—effective date.

"82-1202.2 **Notice of public hearing — publication — adoption of rules—effective date.** Notice of the time and place of public hearing required by section 82-1202, R.C.M. 1947, shall be published at least five (5) times in at least two (2) newspapers of general circulation throughout the state. The last published notice shall appear not less than fifteen (15) days prior to the public hearing. A copy of the notice of public hearing shall be furnished by mail to any person who files his address with the fire marshal together with a request for such notification. Any person may appear before the state fire marshal and present testimony on proposed rules in the manner prescribed by the marshal. Following the public hearing, the state fire marshal may approve, approve in modified form, or disapprove a proposed rule. The state fire marshal shall specify the date when any new rule or change in an existing rule becomes effective. *A new rule or change in an existing rule relating to building and equipment standards covered by the state or a municipal building code is effective upon approval of the state building code council and filing with the secretary of state.*"

Repealing clause.

Section 27. Sections 66-2424, 66-2818, 69-2101 through 69-2103, 69-3701 through 69-3719, and 75-3103, R.C.M. 1947, are repealed.

Approved: March 15, 1969.

CHAPTER NO. 367

An Act to Provide for a "Unitary Method" of Airline Flight Property Assessment; Amending Sections 84-6401 and 84-6404, R.C.M. 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-6401, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-6401. **Definitions.** The following words and phrases, when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section: Definitions.

(a) 'Person' means any individual, corporation, firm, copartnership, company, or association, and includes any guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity therefor. "Person."

(b) 'Scheduled airline company' means any person or company who undertakes directly or indirectly to engage in the business of scheduled air commerce. "Scheduled airline company."

(c) 'Aircraft' means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air. "Aircraft."

(d) 'Flight property' means aircraft fully equipped ready for flight used in air commerce. "Flight property."

(e) 'Air commerce' means the transportation by aircraft of persons or property for hire in interstate, intrastate or international transportation on regularly scheduled flights. "Air commerce."

(f) 'Equated plane hours' means hours spent by aircraft in flight or on the ground weighted according to the cargo capacity of each aircraft. "Equated plane hours."

(g) 'Operating' or 'operated' means landings or takeoffs during interstate flight." "Operating."

Section 2. Section 84-6404, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-6404. **Determination of value.** The board shall determine the full and true valuation of all flight property *of all airlines operating in this state* or used by every scheduled airline company in air commerce. *This valuation may be ascertained by:* Determination of value.

(1) Determining the full and true valuation of all flight

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property, owned and operated by every scheduled airline company, as an integrated operation; and,

(2) Allocating to the state of Montana, from this total valuation, a valuation which represents this state's proper share of the valuation of the flight property, through the application of ratios, which are indicated in section 84-6403, subsections (8), (9), (10) and (11), against the total valuation."

Effective immediately.

Section 3. This act shall be effective on its passage and approval.

Approved: March 15, 1969.

CHAPTER NO. 368

An Act for the Codification and General Revision of the Laws Relating to the Election Laws of the State of Montana; Repealing Sections 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, 23-2501 through 23-2507, R.C.M. 1947.

It is the intent of the legislative assembly that all non-amendatory sections of this bill be codified in Title 23, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act, unless the context clearly indicates otherwise:

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(1) "Election" means a general, special, primary nominating, municipal election, or an election in a school district. "Election."

(2) "General election" means an election held for the election of officers throughout the state at times specified by law. "General election."

(3) "Special election" means an election called by the proper authorities to fill vacancies or to raise money. "Special election."

(4) "Vacancy" means an office which does not have an incumbent who has a right to exercise its functions and take its fees or emoluments. "Vacancy."

(5) "Primary" or "primary election" means a statutory procedure for nominating candidates to public office at the polls. "Primary."

(6) "Party" means any political organization which at the last preceding election for governor polled at least three percent (3%) of the votes for governor. "Party."

(7) "Taxpayer" means a person who has paid a tax on property assessed on a county or city assessment roll next preceding the election at which a question is to be submitted to the vote of the taxpayers. "Taxpayer."

(8) "Registrar" means the county clerk and recorder and any regularly appointed deputy clerk and recorder. "Registrar."

(9) "Commissioners" means the board of county commissioners. "Commissioners."

(10) "City" means any incorporated city or town. "City."

(11) "Council" means any municipal council or commission. "Council."

Section 2. All elections shall be by ballot. Elections by ballot.

Section 3. The person receiving the highest number of votes for any office at an election is elected to that office. Person elected.

Section 4. A general biennial election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November. General election.

Section 5. (1) Except as provided in subsection (2) of this section: Hours of polls.

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(a) the polls must be opened at 8 a.m. on the morning of election day, and must be kept open continuously until 8 p.m. of that day;

(b) in precincts having less than one hundred (100) registered electors, the polls must be opened at 1 p.m. and closed at 8 p.m. of that day;

(c) whenever all registered electors in any precinct have voted, the polls shall be closed immediately.

(2) If a special election is held by a county, city, high school district, or school district on the question of incurring an indebtedness or making a special or additional levy for any purpose, the polls shall open at 12 noon and be kept open continuously until 8 p.m. However, the poll hours shall be as specified in subsection (1) of this section if the election is held on the same day, at the same polling places, and with the same judges and clerks as a general, county, school, or city election.

Persons entitled to vote.

Section 6. (1) Except as provided in Section 7 of this act, every person, if registered as required by law, is entitled to vote at all general and special elections for all officers which are elective, and upon all questions submitted to the vote of the people if he has the following qualifications:

(a) he must be twenty-one (21) years of age;

(b) he must have resided in the state one (1) year and in the county thirty (30) days immediately preceding the election at which he offers to vote;

(c) he must be a citizen of the United States.

(2) No person convicted of a felony has the right to vote unless he has been pardoned.

(3) No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law.

Election on governmental debt—voters.

Section 7. If an election is held on the question of incurring a state debt, issuing bonds or debentures by the state other than refunding bonds or debentures, or the levy of a state tax for any purpose, persons must meet the requirements of Section 6 of this act to vote, be a taxpayer on property in the state, and be listed on the

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last completed assessment roll of a county for state, county, and school district taxes.

Registration in county where not listed.

Section 8. (1) If an elector is registered in a county where his name does not appear on the last completed assessment roll but his name does appear on the last completed assessment roll of another county, he is entitled to vote on a state debt or tax levy in the precinct in which he is registered if he presents to the registrar of the county in which he is registered before close of registration:

(a) a receipt from the treasurer of the county in which he appears on the last assessment roll showing payment of the taxes, or,

(b) a certificate from the treasurer of that county certifying that he is assessed with property, but that the taxes have not yet been paid.

(2) The certificate must be dated, numbered, name the elector, describe the property assessed, show the amount of taxes, and be signed by the county treasurer. The treasurer must keep a duplicate on file.

(3) Whenever a certificate or receipt from the county treasurer is presented, the registrar shall:

(a) enter the elector's name in the poll book of electors entitled to vote on the question;

(b) enter in the poll book the date and number of the tax receipt or certificate and the county in which issued.

(4) An elector meeting these qualifications is entitled to a ballot.

Notice of closing registration—when.

Section 9. (1) If the question of state indebtedness, issuance of bonds or debentures other than for refunding, or the levy of a tax for state purposes, is submitted at an election other than a general biennial election, the registrar of each county shall publish in the official county newspaper, a notice signed by him, stating that registration will close at noon on the fortieth (40th) day prior to the date of the election unless the act providing for the submission of the question fixes a different time for the giving of notice. The notice shall be published ten (10) days or more prior to the date when registra-

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tion will be closed unless the act providing for submission of the question fixes a different time for closing registration.

(2) If the question is to be submitted at a general biennial election, notice and the closing of registration shall be governed by the laws applying to general biennial elections. The provisions of Section 37-107, R.C.M. 1947 apply to the printing and distribution of copies of the proposed law.

Voters privileged from arrest.

Section 10. Electors are privileged from arrest during their attendance at elections and in going to and from voting places except in cases of treason, felony, or breach of the peace.

Advertising questions submitted to people.

Section 11. Questions to be submitted to the people of the county or city must be advertised by publication in at least one (1) newspaper within the county or city once a week for two (2) successive weeks. One (1) of the publications must be upon the last day the newspaper is issued before the election.

Constitutional amendments.

Section 12. If a proposed constitutional amendment or amendments are submitted to the people, the secretary of state shall:

(1) have the proposed amendment or amendments published in full once a week in one (1) newspaper in each county (if such there be) for four (4) weeks prior to the next general biennial election;

(2) have a pamphlet printed containing an exact copy of the proposed amendment or amendments, an exact copy of existing constitutional provisions to be revised, and the amendment or amendments in the form in which it or they will be printed on the official ballot. The printed pamphlets shall be distributed as provided in Section 37-107, R.C.M. 1947.

Election proclamation.

Section 13. Sixty (60) days or more before a general election, the governor shall issue an election proclamation and transmit a copy to each board of county commissioners. The proclamation shall contain:

(1) A statement of the time of the election and the offices to be filled;

(2) An offer of rewards stating: "There is a reward

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of one hundred dollars ($100) for the arrest and conviction of any person violating any of the provisions of Sections 94-1401 through 94-1424, R.C.M. 1947. Rewards will be paid until the total amount expended reaches the sum of five thousand dollars ($5,000)."

Publication of proclamation.

Section 14. When a proclamation prescribed by Section 13 of this act is received, the commissioners shall have a copy published in a newspaper published in the county if a newspaper is published therein, otherwise in a newspaper of general circulation therein, and shall post a copy ten (10) days or more before the election at each polling place.

Special election.

Section 15. When a special election is ordered by the commissioners, they must issue an election proclamation containing the statement contained in Section 13 (1) of this act. The statement must be published and posted in the same manner as a proclamation issued by the governor.

Publication of election laws.

Section 16. The secretary of state shall publish copies of the election laws and laws which relate to elections. He shall transmit sufficient copies to each registrar. The registrar shall furnish each election precinct in his county with two (2) copies.

List of persons of voting age.

Section 17. No later than January 31 in any year in which a general election is held, the Montana highway patrol shall submit to the chairman of each major political party of the state, a list prepared from its driver license registration files, showing names and addresses of all persons who have reached voting age since the last general election or who will reach voting age before the date of the general election. No official of the Montana highway patrol shall be responsible for any honest error or omission in preparing the lists.

Election precinct.

Section 18. (1) The territorial unit for elections is the election precinct.

(2) The commissioners of each county shall establish a convenient number of election precincts equalizing the number of electors in each precinct as nearly as possible.

(3) The commissioners may change the boundaries of precincts but not between January 1 and December

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1 in any year during which a general biennial election will be held.

(a) All changes must be certified to the registrar three (3) days or less after the change is made.

(b) All election precincts shall be designated by numbers, names, or both.

(c) Not more than ten (10) days after an order of the commissioners has established or changed the boundaries of an election precinct, the commissioners shall cause to be prepared and delivered a map to the registrar showing the borders of all precincts and school districts within the county.

(4) The boundaries of election precincts must conform to the wards of cities of the first, second, and third class and the boundaries of first class school districts only.

(5) A ward or school district may be divided into two (2) or more precincts, and a precinct may be divided into two (2) or more polling places.

(6) In cities not of the first, second, or third class, precincts may include two (2) or more wards, or may comprise territory included by one (1) or more wards together with contiguous territory lying outside the incorporated limits of the cities.

Changes in ward boundaries.

Section 19. Not more than ten (10) days after ward boundaries have been changed, the city council must certify any changes or alteration in the ward boundaries to the registrar and deliver to him a map showing boundaries of the wards, the streets, avenues and alleys by name and the wards by numbers.

Designation of election place.

Section 20. The commissioners shall make an order designating the place within each precinct where the election will be held at the session at which election judges are appointed. Copies of the order must be posted immediately in three (3) public places in the precinct.

County registrar.

Section 21. (1) Each county clerk and recorder is ex officio county registrar. He shall:

(a) serve without extra pay or compensation;

(b) have custody of registration books, cards, and other records provided for by this act.

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(2) The official register of electors is an official record of the county clerk and recorder.

Notaries public deputies.

Section 22. (1) All notaries public are deputy registrars in the county in which they reside. They may registrar electors residing in any precinct within the county.

(2) The commissioners shall appoint two (2) deputy registrars who are not notaries public, one (1) from each of the two (2) major political parties, for each precinct in the county from lists of persons recommended by the political parties. If the parties fail to submit lists, the commissioners shall appoint deputy registrars without recommendations from the parties. A deputy registrar shall:

(a) be a qualified taxpaying resident elector in the precinct for which he is appointed;

(b) register electors residing in any precinct in the county.

(3) Not less than three (3) days after a registration card is filled out, deputy registrars shall forward the card to the registrar.

Official register.

Section 23. The registrars shall keep an official register in a manner which each registrar deems the most efficient. A card index shall be kept by the registrar and shall at all times be in the custody of the registrar. The form and information recorded in the registry book and on the registry cards shall be designated by the secretary of state.

Hours of registrar's office.

Section 24. (1) The registrar's office shall be open for voter registration from 8 a.m. until 5 p.m. on all regular working days except legal holidays as defined by Section 19-107, R.C.M. 1947, except that the registrar's office shall be kept open on election day during the hours when the polls are open.

(2) Registration cards shall be numbered consecutively in order of receipt.

(3) The registrar shall classify registration cards by precinct and arrange the cards for each precinct in alphabetical order.

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(4) The cards for each precinct shall be kept in a separate file.

(5) Immediately after filling out a registration card, the registrar shall enter the information in the official register of the county in the proper precinct.

Registration procedure.

Section 25. (1) An elector may register by appearing before the registrar or deputy registrar in the county in which he resides and by:

(a) answering any questions asked by the registrar concerning items of information called for by registry cards;

(b) signing and verifying or affirming the affidavit or affidavits on the back of the card.

(2) Any elector in the United States service who is absent from the state and the county of which he is a resident may register by:

(a) mailing the registry card filled out and signed under oath to the registrar, or

(b) mailing the federal post card application filled out and signed under oath to the registrar.

(3) A person is guilty of a felony and upon conviction shall be imprisoned in the state prison for not less than one (1) nor more than three (3) years, if:

(a) he falsely personates another and causes the person so personated to be registered; or,

(b) falsely represents his name or other information required by registration to any registrar or deputy registrar and causes his name to be registered; or,

(c) causes any name to be placed upon the registry lists other than in the manner provided by this act.

Written request for registration.

Section 26. (1) If an elector is unable to appear before the registrar or a deputy registrar because of physical infirmity, he may send written notice to the registrar or to a deputy registrar asking that his registration be made at his residence.

(2) No person is entitled to receive reimbursement for expenses incurred in complying with this section.

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Eligibility prior to election.

Section 27. (1) A person who is not eligible to register because of residence requirements but who will be eligible on or before election day, may register with the registrar if he answers the questions of the registrar and it appears that he will become qualified to vote by election day.

(2) A person shall not be permitted to register until he attains United States citizenship.

Transfer of registration.

Section 28. If an elector changes his residence, he may transfer his registration to the new precinct by:

(1) executing in person a new registry card before a deputy registrar of the new precinct, and the deputy registrar shall not receive compensation for this service, or

(2) making a request in writing to the registrar in a form prescribed by the secretary of state.

Same—procedure.

Section 29. (1) When a request to transfer registry is received, the registrar shall compare the elector's signature on the request with his signature on the registry card and may question the elector on any information shown on the registry card.

(2) If the registrar is satisfied, he shall endorse on the registry card the date of the transfer and the precinct to which transferred.

(3) The registrar shall file the registry card in the register of the precinct of the elector's residence, or in the register of the precinct of transfer, and transfer the elector's name to the proper precinct in the register.

(4) Where the elector changes his place of registration as provided in Section 28 (1) of this act, the registrar shall file the new card in the register of the precinct of the elector's present residence and transfer the elector's name to the proper precinct in the register. The old registration card shall be marked "cancelled" and placed in the "cancelled file."

Previous registration.

Section 30. (1) The registrar shall question each person registering to ascertain whether he has previously registered in this state. If the person has previously registered, the registrar shall enter his name in a separate

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file which is indexed by counties. Cards for this purpose shall be in the form prescribed by the secretary of state.

(2) Not more than three (3) days after closing the registration books, the registrar shall forward the cards to the registrar where the applicant previously voted by registered or certified mail. The delivery receipt shall be kept on file with other election records.

(3) Upon receiving notice to cancel the registration of an elector, the registrar shall immediately draw red lines through the elector's name in the register and on the registration card.

List of registered electors.

Section 31. (1) Immediately after registration is closed, the registrar shall prepare lists of all registered electors. He shall also prepare a precinct register for each precinct and deliver it to the judges of election prior to the opening of the polls.

(2) The registrar shall stamp "taxpayer" beside the name of an elector who is a taxpayer to show he is qualified to vote in an election for the incurring of a state debt, issuance of bonds or debentures by the state, or the levying of a state tax. No other evidence is necessary to show that the elector is a taxpayer.

Duties of registrar.

Section 32. (1) Except as provided in subsection (3) of this section, immediately after every general biennial election, the registrar shall:

(a) compare the electors who have voted in each precinct, as shown by the official poll books, with the official register of each precinct;

(b) remove the registry cards of all electors who failed to vote, mark each card "cancelled," and place cancelled cards for the entire county in alphabetical order in the "cancelled file;"

(c) notify each elector in writing before the thirty-first day after cancellation by sending notice to his post office address as shown on the election records.

(2) An elector whose card is removed and cancelled may reregister in the same manner as his original registration was made.

(3) The registration of an elector in the United States

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service may be cancelled upon failure to vote in the previous two (2) general elections.

Cancellation of registration.

Section 33. (1) The registrar shall cancel any registration card:

(a) at the written request of the person registered;

(b) when a certificate of the death of any elector is filed;

(c) within forty-five (45) days prior to the closing of registration three (3) qualified registered electors residing within the precinct may challenge an elector by filing affidavits giving the name of the challenged elector, his registry number, his residence, and stating of the personal knowledge of the affiant the person registered does not reside at the place designated on his registration card;

(d) when the insanity of the elector is legally established;

(e) if a certified copy of a final judgment of conviction of any elector of a felony is filed;

(f) if a certified copy of a court order directing the cancellation is filed with the registrar.

(2) Within thirty (30) days after registration has been cancelled, the registrar shall send written notice to the elector at the address shown on the registration card. If a person proves to the registrar that he is qualified, he may reregister.

Challenge of elector qualifications.

Section 34. (1) An elector may challenge the qualifications of another elector any time not later than twenty (20) days prior to an election. The challenge must:

(a) be filed with the registrar and be signed by the elector;

(b) be verified by the affidavit of the elector that the elector designated is not entitled to vote;

(c) state the grounds of the challenge, objection, and disqualification.

(d) notify the elector within five (5) days by reg-

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istered United States mail that his qualifications as an elector have been challenged.

(2) The registrar shall:

(a) file the affidavit of challenge in his office;

(b) deliver a correct copy of the affidavit to the judges of election together with a copy of the precinct registers, check lists, and other documents;

(c) write opposite the name of any person whose qualifications are challenged the words, "to be challenged."

(3) An elector's right to vote may also be challenged on election day by any registered elector by orally stating to the election judges the grounds of the challenge.

(4) The election judges shall:

(a) test the qualifications of the elector challenged under oath if he applies to vote;

(b) compare the answers of the elector with the entries in the precinct register books;

(c) not permit him to vote if the elector is found to be disqualified because the answers given do not correspond to the entry in the precinct regisers, or the elector is disqualified for any cause under the law, or he refuses to take an oath or affirmation as to his qualifications.

(5) The election judges may require the challenged elector to produce one (1) or more elector of the county to be examined under oath as to the qualifications of the challenged elector, and may also request assistance from the county attorney and the registrar in determining the elector's qualifications.

Closing of registration.

Section 35. (1) The registrar shall:

(a) close all registration for forty (40) days before any election;

(b) immediately after closing registration send the secretary of state a certificate showing the number of voters registered in each precinct in a county;

(c) twenty (20) days before the closing, publish notice in a newspaper of general circulation in the county

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specifying the day registration will close and post the notice in each precinct. The published notice shall continue for a period of twenty (20) days.

(2) The notice shall state that electors may register for the ensuing election by appearing before the registrar or before any deputy registrar as provided by law.

Registration after closing.

Section 36. During the time when the registry is closed preceding any election, a person may register and the registrar shall keep his registry card in a separate file until the official register is again open. At that time, all cards in the temporary file shall be placed in their proper position in the official register.

Electors shall be registered.

Section 37. (1) A person shall not vote at an election mentioned in this act unless his name appears on election day in the copy of the official precinct register furnished by the registrar to the election judges. The fact that his name appears in the copy of the precinct register is prima facie evidence of his right to vote.

(2) If the election judges have good reason to believe, or if they are informed by a qualified elector that the person offering to vote is not the person registered in that name, he shall not be allowed to vote until he has proved his identity by the oath of two (2) reputable electors of the precinct in which he is registered.

(3) The election judges in each precinct at every general or special election in a precinct register certified to them by the registrar shall:

(a) mark a cross (X) upon the line opposite the name of the elector;

(b) require the elector to sign his name upon one of the precinct registers;

(c) require an elector, who is not able to sign his name, to produce two (2) electors who shall make an affidavit before the election judges in a form prescribed by the secretary of state. One of the election judges shall write on the affidavit the elector's name, note his inability to sign, and the names of the electors making affidavits. The affidavits shall be returned to the registrar with the other election records.

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Action to compel registration.

Section 38. In any action or proceeding instituted in a district court to compel the registrar to enter the name of any elector in the precinct register, as many persons may be joined as plaintiffs for cause of action and as many persons as there are causes of action may be joined as defendants.

Certificate of eligibility.

Section 39. (1) An elector whose name is erroneously omitted from a precinct register or other election register may secure from the registrar a certificate of the error stating the precinct in which he is entitled to vote and present the certificate to the election judges which will entitled him to vote.

(2) The certificate shall be marked "voted" by the election judges and returned by them with the precinct register.

Naturalized citizens.

Section 40. When a naturalized citizen applies for registration, he must produce a certificate of naturalization or a certified copy upon which the registrar must enter the date and county where presented. The registrar must also enter the applicant's name.

Residence—determination.

Section 41. For registration or voting, the residence of any person shall be determined by the following rules as far as they are applicable.

(1) The residence of a person is where his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(2) A person may not gain or lose a residence while employed in the service of the United States or of this state, while a student at any institution of learning, while kept involuntarily at any public institution not necessarily at public expense, while confined in any public prison, or while residing on a military reservation.

(3) A person in the armed forces of the United States may not become a resident in consequence of being stationed at a military facility in the state. A person may not acquire a residence by reason of being employed or stationed at a training or other transient camp maintained by the United States within the state.

(4) A person does not lose his residence if he goes into another state, or other district of this state, for

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temporary purposes with the intention of returning unless he exercises the election franchise in the other state or district.

(5) A person may not gain a residence in a county if he comes in for temporary purposes without the intention of making that county his home.

(6) If a person moves to another state with the intention of making it his residence, he loses his residence in this state.

(7) If a person moves to another state with the intention of residing there for an indefinite time, he loses his residence in this state even though he intends to return to this state at some future period.

(8) The place where a man's family resides is presumed his place of residence. However, a man who takes up or continues his residence at a place other than where his family resides with the intention of remaining, is a resident of the place where he resides.

(9) A change of residence can only be made by the act of removal joined with intent to remain in another place. There can only be one residence.

(10) The term of residence must be computed by including the day of election.

List of electors on precinct registers.

Section 42. (1) The registrar shall have a list printed of all registered electors shown on the precinct registers of the county, city, or first class school disrict ten (10) days or more preceding any election.

(2) The list shall show the name of the elector in full, the number and street of his residence if he resides within a city, his post office address if he resides outside a city, and the registry number.

(3) Ten (10) days or more before any election, a copy of the list of registered voters shall be posted in each precinct. Sufficient copies of the lists shall be retained by the registrar and furnished to an elector upon request.

(4) If no declarations of nomination have been filed forty (40) days before a primary election for city offices, the city clerk shall immediately notify the registrar in

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writing and the list of registered electors for the city shall not be printed or posted.

(5) The list of registered voters prepared for a primary election may be posted and used for the general election only if a supplemental list giving the names of electors who have registered after the first list was prepared is printed and posted.

(6) The expense of printing this list shall be paid by the county, city, or school district, in which the election is to be held.

Precinct register.

Section 43. After the closing of the official register and before the election, the registrar shall:

(1) prepare a "precinct register" for each precinct for use by clerks and election judges;

(2) list the names of electors in alphabetical divisions;

(3) show all information from the registry card of each elector, except the oath of the elector;

(4) deliver a certified copy of the precinct register to the election judges prior to the opening of the polls;

(5) combine into one (1) precinct register the names of all electors in the several precincts where the precincts in city elections, or elections in school districts of the first class, include more than one (1) county precinct.

(6) If no declarations of nomination have been filed forty (40) days before a primary election for city offices, the city clerk shall immediately notify the registrar in writing, and the precinct register or registers shall not be prepared.

Violation by rejected voter.

Section 44. A person whose vote has been rejected who offers to vote at the same election at any other polling place is guilty of a misdemeanor.

Help and costs.

Section 45. The commissioners shall provide the registrar with sufficent help for the duties imposed by this act. The cost of stationery, printing, publishing and posting are a proper charge against the county.

Registration cost.

Section 46. (1) For each name entered on a precinct register prepared for a city or first class school district,

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the registrar shall charge the city or school district three cents ($.03). He shall also charge the actual expense incurred in printing and posting the lists of electors, publishing notice, and other expenses incurred on account of the city or school district.

(2) The council or board of school trustees shall order a warrant drawn for the expenses specified in subsection (1) of this section within thirty (30) days after notification of the charges.

(3) If no general city election is required, the registrar shall not prepare precinct registers.

(4) If there are only as many candidates nominated as there are vacancies on a first class school district board of trustees, the registrar shall not prepare precinct registers.

(5) Within two (2) days after nominations are legally closed, the city clerk or clerk of a first class school district shall notify the registrar when no precinct registers are required.

Cost of official precinct register.

Section 47. Upon written request, the registrar shall furnish any person a copy of the official precinct registers. Upon delivery, the registrar shall collect a charge of five cents ($.05) for each name entered in the official register.

Violation and penalty.

Section 48. (1) Any person or any officer of a county, city, or school district required to perform duties under this act who wilfully or knowingly fails to do so shall be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1000), or be imprisoned in the county jail for not less than three (3) months nor more than one (1) year. If an officer is involved, the judge of the district court shall also remove him from office.

(2) Any person who makes false answers; violates or attempts to violate any of the provisions of this act; mutilates, secretes, destroys, or alters election records except as provided by law; or knowingly encourages another to violate the act; or any public officer or other person upon whom any duty is imposed by this act who wilfully neglects that duty or wilfully performs the duty in a way which hinders the purposes of this act is

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guilty of a felony. Upon conviction he shall be imprisoned for not less than one (1) year nor more than fourteen (14) years. If a public officer, he shall also forfeit his office and never be qualified to hold public office again either elective or appointive.

Election judges.

Section 49. (1) At their regular meeting next preceding a general primary election, the commissioners shall appoint five (5) election judges for each precinct having two hundred (200) or more electors and three (3) election judges for each precinct having less than two hundred (200) electors. Judges for new precincts shall be appointed based upon the estimated number of electors.

(2) If a precinct has three hundred fifty (350) or more electors, the commissioners may appoint a second board of five (5) election judges who shall have the same qualifications as the first board. The second board shall:

(a) meet at their respective polling places as ordered;

(b) count and tabulate ballots as soon as the first board has completed their duties in regard to the voting.

(3) If counting and tabulating the ballots is not completed by 8 a.m. on the day following the election, the first board shall reconvene and relieve the second board until 8 p.m. when the second board shall again reconvene and relieve the first board until the ballots are counted and tabulated.

(4) The election judges constituting the boards shall number the ballots and count the tally upon the tally sheets and indicate upon the tally sheets the work of each board. The board completing the count shall certify the returns as required by law.

Same—when chosen.

Section 50. (1) The election judges shall be chosen from lists of qualified voters submitted by the two (2) major political parties thirty-five (35) days or more before the commissioners meeting which precedes the next primary election.

(2) The list of each party must contain twice the number of election judges to be appointed and not more than a majority may be appointed from one (1) political party for each precinct.

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(3) The commissioners may appoint election judges in their discretion to fill vacancies or if a major political party fails to submit a list of election judges.

(4) No person shall be appointed to serve as an election judge or election clerk who is a candidate, spouse of a candidate, or related to a candidate for office within the second degree of consanguinity. However, this subsection does not apply to school district elections nor to candidates for precinct committeeman or committeewoman.

Clerks of election.

Section 51. (1) The election judges may appoint two (2) persons having the same qualifications as themselves to act as clerks of the election who serve at the pleasure of the judges.

(2) The election judges continue to be judges of all elections held in their precincts until other judges are appointed.

(3) The commissioners shall fill vacancies which occur in the office of election judge.

Same—notification.

Section 52. (1) The registrar must notify the election judges in writing of their appointment.

(2) Twenty (20) days or more before any general election, the registrar shall mail two (2) notices of the election to the election judges. The notices shall be in the form prescribed by the secretary of state.

(3) Ten (10) days or more prior to the election, the election judges shall post one (1) notice at the place where the election will be held and the other in one (1) of the most public places in the precinct.

Oaths of officials.

Section 53. (1) Before votes are cast, the election judges and clerks must take and subscribe the official oath prescribed by the constitution. The election judges may administer the oath to each other and to the clerks.

(2) Any election judge or a clerk may administer and certify oaths required during an election.

Instruction of judges.

Section 54. (1) Before each election, all election judges who do not possess a certificate of instruction shall be instructed by a person named by the commissioners in the powers, duties, and liabilities of election judges.

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(2) The instructor shall call meetings as necessary.

(a) The election judge shall attend each meeting and receive at least two (2) hours of instruction.

(b) Each election judge shall receive compensation fixed by the commissioners at the prevailing federal minimum wage for instruction to be paid at the same time and in the same manner as for services on election day.

(3) Each judge shall receive a certificate of completion from the instructor upon completion of the course. Each certificate is valid for a period of two (2) years.

(4) No person shall serve as election judge without a valid certificate. However, this does not apply to persons filling vacancies in emergencies.

(5) Notice of place and time of instruction must be given to the county chairmen of the two (2) major political parties by the commissioners.

Compensation of officials.

Section 55. The compensation of election judges and clerks shall be fixed by the commissioners at the prevailing federal minimum wage and be paid from county funds. The commissioners shall audit the accounts.

Primary election.

Section 56. The primary election shall be held on the first Tuesday in June preceding any general election to select candidates for:

(1) United states senators and representatives in Congress;

(2) other elective state, district, and county officers;

(3) delegates to any constitutional convention who will be chosen at the ensuing general election;

(4) county central committeemen and committeewomen by the political parties.

Nomination of candidates.

Section 57. In cities having a population of three thousand five hundred (3,500) or more as shown by the most recent federal or state census:

(1) the nomination of candidates by primary election for city offices shall be subject to the provisions of this chapter;

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(2) political parties shall file declarations of nominations for city offices with the city clerk;

(3) the duties of the city clerk are the same as the registrar in conducting the primary elections, and the city clerk shall send notices of the primary election in the same manner as registrars send notices for nominations for county offices at primary elections;

(4) on the fourteenth day preceding a city election, the cities shall hold primary elections;

(5) if no declarations are filed forty (40) days or more before the primary election, no primary election shall be held and the city clerk shall certify to the registrar thirty-five (35) days or more before the date of the primary election that no petitions have been filed;

(6) the council shall;

(a) establish city voting precincts and wards,

(b) appoint city judges and clerks of elections and other officers necessary for the election,

(c) perform other necessary duties in the same manner prescribed for city elections.

Notices of election.

Section 58. (1) Twenty (20) days before any primary election, the registrar shall prepare printed notices of the election and mail two (2) notices to each judge of election.

(2) Each judge and clerk shall immediately post the notices in public places in their precinct.

(3) Notices shall be in the form, and contain information, as prescribed by the secretary of state.

Declaration of nomination.

Section 59. (1) Each candidate in the primary election, shall send a declaration of nomination to the secretary of state, registrar, or city clerk.

(2) The candidate must sign the declaration and send with it the required filing fee, to be acknowledged by a notary public if by mail, or by the officer of the office at which the filing is made.

(3) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by his party.

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(4) Nominating declarations are filed:

(a) in the office of secretary of state for congressional offices, state or district offices to be voted for in more than one (1) county, members of the legislative assembly, and judges of the district court;

(b) in the office of the registrar for county and district offices to be voted for in one (1) county only, and for township and precinct offices;

(c) in the office of the city clerk for all city officers.

Filing fees.

(5) Filing fees are as follows:

(a) for offices having a salary of one thousand dollars ($1,000) or less per annum, ten dollars ($10), except candidates for the legislative assembly or lieutenant governor must pay fifteen dollars ($15);

(b) for offices having a salary of more than one thousand dollars ($1,000) per annum, one percent (1%) of the total annual salary;

(c) for the offices of county commissioner;

(i) in counties of the first class, forty dollars ($40),

(ii) in counties of the second class, thirty-five dollars ($35),

(iii) in counties of the third class, thirty dollars ($30),

(iv) in counties of the fourth class, twenty-five dollars ($25),

(v) in counties of other classes, ten dollars ($10),

(d) for offices in which compensation is paid in fees, five dollars ($5);

(e) for state, county, and precinct committeemen, delegates to national conventions, and presidential electors, no fees are required.

(6) A person nominated by having his name written in on the primary ballot and desiring to accept the nomination shall not have his name printed on the general election ballot unless he:

(a) files with the secretary of state, registrar or city

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clerk, at least ten (10) days after the primary a written declaration indicating his acceptance of the nomination;

(b) pays the required filing fee,

(c) received at least five percent (5%) of the votes cast for the office at the last preceding general election.

(7) The declaration for nomiation shall be in form and contain information, prescribed by the secretary of state. Every declaration must be signed by the elector seeking nomination.

Filing of nominating declarations.

Section 60. Nominating declarations shall be filed not later than 5 p.m. forty (40) days before the date of the primary election. Declarations for nomination to an office filled by election throughout the state, as judge of a district court, to an office filled by election in more than one (1) county, or as a member of the legislative assembly shall be filed with the secretary of state. Declarations for nomination to an office filled by election in one (1) county, or district or city shall be filed with the registrar or city clerk.

Register of candidates for nomination.

Section 61. (1) The secretary of state, registrar, and city clerk shall keep a "Register of Candidates for Nomination at the Primary Nominating Election." The entries in the register shall contain on separate pages for each political party showing:

(a) the title of the office sought, and the name and residence of each candidate;

(b) the name of his political party;

(c) the date of receiving the declaration for nomination signed by the candidate;

(d) other information as may aid in arranging the official ballot.

(2) Immediately after the canvass of votes of the primary election, the officer shall enter in the register the date of entry, the name of each candidate nominated, the office for which he is nominated, and the name of the party making the nomination.

(3) When filed, the registers, declarations of nomination, letters and notices, and other documents required

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by law are public records and open to inspection under proper regulation. Certified copies shall be available upon payment of the fee.

(4) The registrar shall keep all pollbooks, tally sheets, ballots, ballot stubs, and other documents for one (1) year, and then he shall destroy them.

Arrangement of candidates names.

Section 62. (1) Not more than forty (40) days and not less than thirty-two (32) days before the date of the primary election, the secretary of state shall:

(a) arrange all names and information concerning candidates contained in the valid nominating declarations;

(b) certify the arrangement under state seal, file it in his office, and transmit a duplicate by registered mail to each registrar;

(c) post a duplicate in a conspicuous place in his office until after the primary election.

(2) Not more than thirty (30) days, and not less than twenty (20) days before the date of the primary election, the registrar or city clerk shall:

(a) arrange, as required by law, the names and other information concerning the candidates and parties named in the valid nominating declarations which have been certified to him or filed with him;

(b) certify the arrangement, file it in his office, and post a duplicate in a conspicuous place in his office until after the primary;

(c) have colored sample ballots and the official ballots printed as required by law.

Ballots.

Section 63. (1) At the primary, there shall be a ballot for each political party entitled to participate. Each ballot shall be printed on a separate sheet of white paper of the same size, folded, and securely fastened at the top.

(2) Candidates' names shall be arranged alphabetically by surnames, under the offices and under the proper party designation. When two (2) or more persons are candidates for nomination for the same office, the registrar shall divide the ballot to provide a rotation of the names of the candidates as follows:

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(a) divide all county ballot forms into sets equal in number to the greatest number of candidates for nomination or election to any office;

(b) arrange the sets so that candidates' names are rotated by removing one name from the top of the list for each nomination or office and place the name or number at the bottom of the list for each successive set of ballot forms; however, in printing ballots for use in any one (1) precinct, only one (1) set shall be used and they shall be identical;

(c) if an elector writes the name of a person upon a ballot, and the person's name appears as a candidate upon another ballot, the ballot shall count for the person only as a candidate of the party upon whose ticket his name is written;

(d) if a person is nominated upon more than one (1) ticket, not later than ten (10) days after the election he shall file written notification with the secretary of state, registrar, or city clerk the party under which his name is to appear upon the ballot for the general election, and, if he fails to notify the proper officers, his name shall appear under the party with whom his nominating declaration was first filed;

(e) if a person fails to be nominated upon the party ticket contained in his nominating declaration, his name shall not be printed upon any ballot with party designation;

(f) this act does not preclude an elector from having his name printed upon the ballot as an independent candidate, and no candidate shall have his name printed on more than one (1) ticket.

(3) Ballots shall be printed on white paper in the form of the Australian ballot and the candidates of each party shall be printed on a separate ticket.

(4) After preparing his ballot, the elector shall detach it from the remaining tickets and fold it so that the face is concealed and the official stamp is seen;

(a) the elector shall fold the remaining tickets, vote the marked ballot without leaving the polling place, and deposit the remaining tickets in a separate box marked as the blank ballot box;

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(b) immediately after the recount period, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Ballots—number—samples.

Section 64. (1) Ballots equal to the number of voters entitled to vote in the primary shall be printed and furnished to each election precinct.

(2) If a political party desires sample ballots its political committee may order them from the registrar or city clerk and pay the costs of printing. The registrar or city clerk shall order delivery in writing of the sample ballots and no sample ballots shall be printed without an order from the registrar or city clerk.

(3) Sample ballots shall be duplicates of the official ballot, but shall not be printed on white paper, shall not have the same margins, and shall not have perforated stubs.

Counting ballots.

Section 65. Immediately after the polls are closed at a primary election, the election clerks and judges shall open the ballot boxes and:

(1) count the ballots cast by each political party and fasten the ballots cast for each political party into separate files,

(2) take the tally sheets provided by the registrar and count the ballots for each political party,

(3) certify the number of votes cast for each candidate for each office,

(4) place the counted ballots in the box.

Tally sheets.

Section 66. (1) The registrar shall furnish tally sheets for each political party having candidates in the primary election for each voting precinct. Tally sheets shall contain the names of the candidates, names of the political parties designated at the head, and be numbered in the order in which the names appear on the official ballot.

(2) Tally sheets shall show:

(a) the number and name of each person voted for;

(b) office for nomination to which each person was voted for;

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(c) total number of votes cast for each candidate for nomination.

(3) The election clerks and judges shall audibly announce the tally or count, and shall keep the tally in the form prescribed by the secretary of state. The tally or count shall be certified by the election clerks and judges.

(4) The election clerks shall in ink:

(a) keep tally upon the prescribed tally sheet of each political party;

(b) total the number of tallies and write the total immediately to the right of the last tallies for each candidate and also in the columns headed "total vote;"

(c) prepare the certificate required by subsection (3) of this section;

(d) immediately upon completion of the count, sign the tally sheets, and each clerk shall certify which sheets were kept by him;

(e) if the chairman and judges are satisfied with the correctness of the tally sheets, they shall sign all the tally sheets.

(5) The election clerks shall then prepare a statement of that portion of the tally sheets showing the number and name and political party of each candidate for nomination and the office and total votes received by each in the precinct, and shall prepare the certificate. The election clerks and judges who complete the count shall sign the statement and immediately post it in a conspicuous place outside of the polls. The statement shall remain posted for ten (10) days.

Duties of election clerks and judges.

Section 67. (1) Immediately after canvassing votes, the election clerks and judges who complete the count shall enclose the pollbooks in separate envelopes and securely seal them. The election clerks and judges shall:

(a) enclose the tally sheets in separate envelopes and securely seal them;

(b) enclose the precinct registers in separate envelopes and securely seal them;

(c) enclose all ballots fastened together and in separate envelopes and securely seal them;

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(d) specify in ink the contents, and address each package to the registrar of the county in which the election precinct is situated;

(e) mark the sealed ballot packages on the outside showing what numbers are contained, but once sealed they are not to be opened until ordered by the proper court.

(2) When the count is completed, the sealed ballots shall be placed in two (2) ballot boxes, the boxes locked and the seal of the board pasted over the keyhole and rim of the lid so that to open the box the seal must be broken. The registrar or the canvassers making the abstracts of the votes shall not break the seal, nor shall anyone break the seal except upon court order in case of contest or on order of the commissioners when the boxes are needed for the ensuing election.

Abstracts of votes.

Section 68. (1) At 8 a.m. on the third day after the close of any primary election, or at 8 a.m. on a day sooner if all the returns are in, the registrar, taking two (2) assistants who are justices of the peace, county commissioners, or either, shall open the returns and make abstracts of the votes.

(2) Abstracts of votes for nomination of each party for governor, lieutenant governor, secretary of state, attorney general, state auditor, superintendent of public instruction, railroad commissioners, clerk of the supreme court, state treasurer, justices of the supreme court, United States senators, United States representatives, judges of the district court, and members of the legislative assembly, shall be on one (1) sheet, separately for each political party, and shall be forthwith transmitted to the secretary of state, as required by section 69 of this act.

(3) Abstracts of votes for county and precinct offices shall be placed on separate sheets for each political party, and the registrar shall certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination. He shall notify each person who is nominated by mail.

(4) If there is a tie for the same nomination in one (1) party, the registrar shall notify the affected persons to come to his office at a time set by the registrar. The registrar shall then decide publicly by lot which of the per-

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sons is the nominee. The registrar shall enter the name of the person chosen as nominee upon his register of nominations.

(5) The registrar shall, on receipt of the primary returns, make out a certificate stating the compensation the election clerks and judges are entitled to and transmit this certificate to the commissioners. The commissioners shall order the compensation paid out of the county treasury.

(6) In all primary elections, the person having the highest number of votes for nomination to any office is the nominee for his political party for that office.

Delivery of abstracts to secretary of state.

Section 69. (1) The registrar, immediately after making the abstracts of votes, shall send a copy of each of the abstracts by mail to the secretary of state.

(2) The secretary of state shall, in the presence of the governor and the state treasurer, proceed not later than fifteen (15) days after the date of the primary election to canvass the votes given for nomination for governor, United States senator, United States representative, lieutenant governor, attorney general, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, state auditor, justices of the supreme court, clerk of the supreme court, judges of the district court, members of the legislative assembly, and all other officers voted in any district comprising more than one county.

(3) The governor shall grant a certificate of nomination to the person having the highest number of votes for each office, and shall issue a proclamation declaring the nomination of each person by his party.

(4) When a tie exists between two (2) or more persons for nomination in the same party, the secretary of state shall immediately give notice to the persons tied, to attend in person or by attorney, at his office at a time appointed by him. He shall then publicly decide by lot which person is nominated by his party. The governor shall issue his proclamation declaring the nomination of that person.

Errors in elections.

Section 70. (1) Whenever it appears by affidavit to the district court, to the supreme court, or to a supreme court judge:

(a) that an error or omission has occurred, or is about

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to occur, in the printing of the name of any candidate or other matter on the official primary nominating election ballots;

(b) that any error has been, or is about to be, committed in the printing of the ballots;

(c) that the name of any person or any other matter has been, or is about to be, wrongfully placed upon the ballots;

(d) that any wrongful act has been performed by any judge or clerk of the primary election, registrar, canvassing board or member, or by any person charged with a duty under this act, or that any neglect of duty by any of the persons has occurred or is about to occur; the court shall require by order the officer or person charged with the act or neglect to perform his duties required by law or show cause why the order should not issue.

(2) Failure to obey the court order is contempt.

(3) Any person aggrieved by the refusal or failure of any person to perform any duty required by this act shall, without derogation of any other right or remedy, be entitled to seek a writ of mandamus in the district court and the proceeding shall be immediately heard and decided.

Contest of nominations.

Section 71. (1) Five (5) days or less after a person has been nominated, any person wishing to contest the nomination to any state, county, district, township, precinct, or city office shall give notice in writing to the person whose nomination he intends to contest briefly stating the cause for the contest.

(2) The contestant shall make application to the district court judge in the county where the contest is to be had. The judge shall then set the time for the hearing.

(3) The contestant shall serve notice three (3) days before the hearing is scheduled. The notice shall state the time and place of the hearing.

(4) The judge of the district court shall hear and determine the case and make all necessary orders for the trial of the case and carrying his judgement into effect. The order of the judge shall express the will of a majority of the legal voters of the political party, as indicated by their votes, disregarding technicalities or errors in spelling.

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(5) Each party is entitled to subpoenas.

(6) The registrar shall issue a certificate to the person declared nominated by the court. The certificate shall be conclusive evidence of the right of the person to hold the nomination.

Election of committeemen.

Section 72. (1) Each political party shall elect at each primary election one (1) man and one (1) woman who shall serve as committeemen for each election precinct. The committeemen shall be residents and registered voters of the precinct.

(2) An elector may be placed in nomination for committeeman by a writing so stating, signed by the elector, notarized, and filed in the office of the registrar within the time for filing declarations naming candidates for nomination at the regular biennial primary election.

(3) The names of candidates for precinct committeeman of each political party shall be printed on the party ticket in the same manner as other candidates and the voter shall vote for them in the same manner as he does for other candidates.

Duties of committeemen.

Section 73. (1) Each committeeman shall represent his political party for the precinct in all ward or subdivision committees formed.

(2) The committemen in each precinct shall constitute the county central committee of the respective political parties.

(3) Committeemen who reside within the limits of a city are ex officio the city central committee of their respective political parties and have the power to make their own rules not inconsistent with those of the county central committee. However, the county central committee has the power to fill vacancies in the city central committee.

(4) Each precinct committeeman has a term of two (2) years from the date of his election.

(5) If a vacancy occurs, the remaining members of the county committee may select a precinct resident to fill the vacancy.

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Powers of central committee.

Section 74. (1) The county and city central committee may:

(a) make rules for the government of its political party in each county, not inconsistent with any of the provisions of this act nor the rules of its state political party;

(b) elect two (2) county members of the state central committee, one (1) shall be a man and one (1) shall be a woman; elect the members of the congressional committee; and fill all vacancies and make rules in their jurisdiction.

(2) If there is no county central committee, the state central committee shall appoint a county central committee.

Nominations to fill vacancies.

Section 75. County and city central committees may make nominations to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary election if the vacancy is caused by death, resignation, or removal from the electoral district but not otherwise.

Committee meetings.

Section 76. (1) The committee shall meet prior to the state convention of its political party and organize by electing a chairman and one (1) or more vice-chairmen. The chairman or first vice-chairman shall be a woman. They shall elect a secretary and other officers as are proper. It is not necessary for the officers to be precinct committeemen.

(2) The committee may select managing or executive committees and authorize subcommittees to exercise any and all powers conferred upon the county, city, state, and congressional central committees by this act.

(3) The chairman of the county central committee shall call the central committee meeting and not less than four (4) days before the date of the central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call, enclosing a blank proxy, to each precinct committeeman. No proxy shall be recognized unless held by an elector of the precinct of the committeeman executing it.

(4) The county chairman of the party shall preside at the county convention. No person other than a duly elected

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or appointed committeeman or officer of the committee is entitled to participate in the proceedings of the committee.

(5) If a committeeman and the appointed proxy are absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The chairman and secretary of the county convention shall issue and sign certificates of election of the delegates.

Violation of act by election clerk or judge.

Section 77. (1) If an election clerk or judge of a primary election, or other officer or persons on whom a duty is enjoined, wilfully neglects that duty or commits any corrupt act in the discharge of his duty, he is guilty of a violation of this act. Upon conviction, he shall be imprisoned in the state prison for not less than one (1) year nor more than five (5) years, imprisoned in the county jail for not less than three (3) months nor more than one (1) year, or fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(2) If a candidate for nomination is guilty of any act which is wrongful or unlawful, or acts at the primary which would be sufficient to cause his removal from office if committed at the regular general election, he shall, upon conviction, be removed from office in the same manner as though the act had been committed at a regular general election, even though he may have been regularly elected and was not guilty of a wrongful or unlawful act at the election at which he was elected to his office.

Certificate of nomination.

Section 78. Except as provided in subsection (6) of this section, nominations for public office by an individual or a political party which did not appear on the ballot in the next preceding election may be made by executing a certificate of nomination.

(1) The certificate must be in writing and contain:

(a) the name of a candidate for the office to be filled;

(b) his residence, his occupation, and his business address.

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(2) If a certificate is filed by a political party which did not appear on the ballot in the next preceding election, it must contain the party name and in five (5) words or less the principle which such body represents.

(3) The certificate must be signed by electors residing within the state and district, or political division in which the officer or officers are to be elected. Each elector signing a certificate shall add to his signature his place of residence, and his business address.

(4) The number of signatures must be five percent (5%) or more of the total vote cast for the successful candidate for the same office at the next preceding election.

(5) The candidates for nomination shall file the certificates ninety (90) days prior to the date of the general election.

(6) A person who desires to run for president or vice-president as an independent candidate, must file a certificate of nomination with the secretary of state. The certificate must have the signatures of electors equal to five percent (5%) or more of the legal votes cast for governor at the next preceding general election. He must also nominate the required number of electors allowable to Montana and certify the names to the secretary of state.

(7) This section shall not apply to nominations for special elections or to fill vacancies.

Preservation of certificates of nomination.

Section 79. (1) The secretary of state, registrars, and city clerks shall preserve all certificates of nominations for one (1) year. All certificates shall be open to public inspection under rules adopted by the various offices.

(2) Forty-five (45) days or more before an election, the secretary of state shall certify to the registrars the name and description of each person nominated, as specified in the certificates of nomination filed with him.

(3) Each election board shall transmit to the secretary of state a statement of the number of votes cast for a person as the candidate for the independent body by which he was nominated.

Nomination of candidates by political parties.

Section 80. (1) Every political party which received three percent (3%) or more of the total vote cast for

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governor at the next preceding general election in the county, district, or state for which nominations are proposed to be made, shall nominate its candidate for public office in the county, district or state under this act.

(2) Every political party, and its regularly nominated candidates, members and officers, has the sole and exclusive right to the use of the party name. No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated.

(3) An independent or nonpartisan candidate shall not use any word of the name of any existing political party or organization in his candidacy.

(4) The names of candidates for public office nominated under this act shall be printed on the official ballots for the ensuing election as the only candidates of the respective parties for public office in the same manner as the names of the candidates nominated by other methods are required to be printed on the official ballots.

(5) Any political party that did not receive three percent (3%) or more of the total vote cast for governor, as provided in subsection (1) of this section, and any new political party about to be formed, may make nominations for public office as provided in section 78 of this act.

Power of political parties.

Section 81. (1) Each political party shall have power to:

(a) make its own rules and regulations;

(b) provide for and select its own offices;

(c) call conventions and provide for the number and qualification of delegates;

(d) adopt platforms;

(e) provide for selection of delegates to national conventions;

(f) provide for the nomination of presidential electors;

(g) provide for the selection of national committeemen and women;

(h) make nominations to fill vacancies occurring among

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its candidates nominated for offices to be filled by the state at large or by any district consisting of more than one (1) county where such vacancies are caused by death, resignation or removal from the electoral district;

(i) perform all other functions inherent in such an organization.

Procedure to decline nominations and filling of vacancies.

Section 82. (1) Twenty (20) days or more before the election, a person nominated for public office may decline the nomination by a writing sent to the office with whom his nominating declaration is filed. In city elections, the declination shall be made ten (10) days or more before the election.

(2) If a vacancy occurs in the office of a candidate in case of death or removal from the state or district before the date of the primary, the vacancy shall be filled by the affected political party.

(3) When a vacancy occurs in the office of a candidate after the primary and before the general election in a multicounty district, the vacancy shall be filled as follows:

(a) The vacancy shall be filled by a committee of three (3) members selected from each county by the county central committees of the affected political party.

(b) The secretary of the committee shall transmit a certificate to the secretary of state with the information contained on the original certificate plus the cause of the vacancy, the name of the person nominated, the office to be filled, and the name of the person for whom the nomination was made.

(c) When the certificate is filed with the secretary of state he shall insert the name of the person nominated to fill the vacancy.

(d) If the secretary of state has certified the nominations to the registrars, he shall immediately certify to the registrars the name of the person nominated to fill the vacancy, the office to be filled, the party or political principle he represents, and the name of the person for whom the nominee is substituted.

Expenses of conventions.

Section 83. (1) Except as provided in subsection (2) of this section, expenses of county and state conventions shall be paid by the political parties.

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(2) Elected delegates and alternates attending state conventions to nominate presidential electors shall be paid eight cents ($.08) per mile for travel to and from the convention paid from the county general fund.

Duties of commissioners.

Section 84. The commissioners shall:

(1) furnish pollbooks to each election precinct in a form prescribed by the secretary of state;

(2) furnish printed blanks for precinct registers, pollbooks, tally sheets, lists of electors, tickets, and returns, together with envelopes in which to enclose the returns;

(3) furnish for each polling precinct a ballot box or canvas pouch with a lock and key for the ballots and detached stubs.

City elections.

Section 85. In city elections, the city clerk shall perform all duties prescribed for registrars in this chapter.

Duties of registrars.

Section 86. Before the opening of the polls, the registrars or city clerks shall:

(1) deliver the election ballots to the judges of election in each polling place;

(2) deliver a rubber stamp which contains the words "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election, and the name and official designation of the clerk who furnished the ballots.

Election supplies.

Section 87. In sending out election supplies to each precinct, the registrars shall send six (6) or more printed forms with a return envelope to the election judges to be used in sending election returns for public information. The forms shall be in ballot form and have printed on them the names of each candidate and each proposition.

Counting votes.

Section 88. (1) Immediately after all the ballots are voted in each precinct, the election judges shall copy the total votes cast for each candidate and for and against each proposition on the blanks furnished by the registrars in the preceding section.

(2) The election judges shall immediately post one of the blanks at the polling place, and send a copy by mail to the registrar.

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Printed ballots.

Section 89. Except as otherwise provided in this act:

(1) the registrar shall provide printed ballots for every election for public officers. He shall print on the ballot the names of all candidates, including candidates for chief justice and associate justices of the supreme court, and judges of the district courts;

(2) an elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, but must mark it as provided in section 106 of this act. When the ballot is marked in this manner it must be counted the same as though the name is printed upon the ballot and marked by the voter;

(3) ballots other than those printed by the registrars may not be cast or counted in any election.

Questions submitted to people.

Section 90. (1) When the secretary of state has certified to the registrar any question to be submitted to a vote of the people, the registrar must print the ballot in a form which will enable the electors to vote upon the question presented as provided by law.

(2) The registrar must prepare the necessary ballots whenever any question is to be submitted to the electors of any locality, or of the state generally. However, for questions submitted to the electors of a city alone, the city clerk shall prepare the necessary ballot.

Cost of ballots.

Section 91. (1) All ballots cast for public officers within the state, except school district officers, must be printed and distributed at public expense.

(2) The county shall pay for the printing of ballots and cards of instruction for elections in each county.

(3) The expense of printing and delivering ballots in city elections is a charge upon the city in which the election is held.

(4) All official ballots must be uniform in size and printing. This involves:

(a) uniformity in the type of ink used, which must be black, size of paper, type of white paper and arrangement of the paper, and the names of candidates printed upon the ballots shall be in type of the same size and character;

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(b) when the stubs are detached, it must be impossible to distinguish any one of the ballots from another ballot;

(c) the ballots must contain the name of every candidate whose nomination is certified under law for a special office and no other names except that the names of candidates for president and vice president of the United States shall appear on the ballot as provided in section 214 of this act.

Candidates names.

Section 92. (1) Candidates' names shall be printed in one place on the ballot with the name of the party or political organization, as found in the certificate of nomination in not more than three (3) words, printed opposite the name.

(2) The names of candidates for chief justice, associate justices, and district court judges shall be followed by: "Nominated without party designation."

(3) If a person is nominated for the same office by more than one (1) party, he shall file a written election with the officer with whom he filed his declaration of nomination in the time required to file the declaration. If he fails or neglects to file an election, no party designation shall be placed opposite his name.

Vacancy before election.

Section 93. (1) If a vacancy occurs after the printing of the ballots but before election, and a person is nominated to fill the vacancy, the officer whose duty it is to have the ballots printed must print pasters containing the name of the new nominee and mail them to the election judges by registered letter.

(2) The election judges shall affix the pasters over the substituted name in the proper place on each ballot before it is given to the elector.

Arrangement of candidates names.

Section 94. (1) The candidates' names shall be arranged alphabetically on the ballots according to surnames under the appropriate title of the respective offices.

(2) The candidates of the two (2) major parties shall appear on the ballot before and above candidates of minor parties and independent candidates.

(3) The parties whose candidates for governor, except independent candidates, received the highest number of

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votes at the next preceding four (4) general elections shall constitute the two (2) major political parties.

(4) If there is a tie in the number of first or second place votes, the determination shall be made by going back to enough preceding elections to break the tie and no further.

(5) All other candidates shall be designated as either independent candidates or as belonging to minor parties.

(6) If two (2) or more persons are candidates for election to the same office, the registrar shall divide the ballot forms into sets to provide a substantial rotation of the names of candidates as follows:

(a) he shall divide the whole number of ballot forms for the county into sets equal in number to the greatest number of candidates for any office;

(b) he shall arrange the sets so that the names of the candidates beginning with a form arranged in alphabetical order, are rotated by removing one (1) name from the top of the list for each office and placing the name or number at the bottom of the list for each successive set of ballot forms;

(c) for the purposes of rotation, the office of president and vice president shall be considered as a group;

(d) no more than one (1) of the sets shall be used in printing the ballots for use in any one (1) precinct, and all ballots furnished for use in any precinct shall be identical;

(e) candidates of the two (2) major parties shall be rotated so they appear on the ballot before and above any candidates of the minor parties or independent candidates.

Categories.

Section 95. (1) Each ballot shall contain three (3) categories with at least one (1) column for each category.

(2) At the head of the first column to the left shall be the words, "STATE AND NATIONAL," in bold face type, followed by a list of all candidates for state and national offices, including supreme court justices, district court judges, and members of the legislative assembly, and

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the list shall progressively continue to the top of the second column.

(3) Next shall be the words "COUNTY AND TOWNSHIP," in large bold face type and beneath the heading all candidates for county and township offices. The list shall progressively continue on to the top of the third column.

(4) Next shall be the words "INITIATIVES, REFERENDUMS, AND CONSTITUTIONAL AMENDMENTS," in bold face type, and listed thereunder shall be all proposed constitutional amendments and measures to be voted which do not involve the creation of any state levy, debt, or liability. If there are no such measures, this heading shall be eliminated.

(5) Following each except the last column, the words "VOTE IN THE NEXT COLUMN" shall appear.

(6) All measures involving the creation of a state levy, debt, or liability shall be submitted to the voters upon a separate official ballot.

(7) Each ballot shall be printed so that all the matters printed are equally apportioned among the three (3) categories as nearly as possible.

Order of offices.

Section 96. (1) The order of offices on the ballot in the first column designated "STATE AND NATIONAL," shall be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice-president. The names of candidates for president and vice-president for each political party shall be grouped together.

(b) United States senator;

(c) United States representative;

(d) governor;

(e) lieutenant governor;

(f) secretary of state;

(g) attorney general;

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(h) state treasurer;

(i) state auditor;

(j) railroad and public service commissioners;

(k) state superintendent of public instruction;

(l) clerk of the supreme court;

(m) chief justice of the supreme court;

(n) associate justices of the supreme court;

(o) district court judges;

(p) state senators, members of the house of representatives.

If any offices are not to be elected, they shall not be designated but the order of offices to be filled shall maintain their relative positions.

(2) In the column designated, "COUNTY AND TOWNSHIP," the following order of placement shall be observed:

(a) clerk of the district court;

(b) county commissioner;

(c) county clerk and recorder;

(d) sheriff;

(e) county attorney;

(f) county auditor;

(g) other offices in the order designated by the registrar.

(3) In the third column constitutional amendments shall be followed by referendum and initiative measures.

Blank spaces for each office.

Section 97. (1) Below the names of candidates for each office there must be enough blank spaces to contain as many written names of candidates as there are persons to be elected.

(2) There must be a margin on each side of at least one-half (½) inch in width, and a reasonable space between the names, so that the voter may clearly indicate the candidate for whom he wishes to cast his ballot.

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Ballot stubs.

Section 98. (1) The ballot shall be printed on the same leaf with a stub, and separated by a perforated stub.

(2) The stub shall extend the entire width of the ballot, and have instructions printed on it.

(3) Upon the face of the stub shall be printed, in type called brevier capitals, the following:

(a) "This ballot should be marked with an 'X' in the square before the names of each person or candidate for whom the elector intends to vote. The elector may write in blank spaces, or paste over another name, the name of a person for whom he wishes to vote, and vote by marking an 'X' in the square before the name."

(b) "If a ballot contains a constitutional amendment, or other question to be submitted to a vote of the people, it is voted on by marking an 'X' in the square before the amendment or question."

(4) On the back of the stub shall be printed or stamped by the registrar or other officer, the consecutive number of the ballot, beginning with number one (1) and increasing in regular numerical order to the total number of ballots required for the precinct.

Sufficient ballots.

Section 99. (1) The registrar must provide each election precinct with sufficient ballots for the electors registered plus sufficient copies to cover destroyed ballots.

(2) The registrar shall keep a record in his office, showing the exact number of ballots that are delivered to the election judges of each precinct.

(3) In city elections the city clerk shall provide necessary ballots.

Short and long-term offices—order.

Section 100. (1) If there is a short-term and a long-term election for the same office, the long-term office shall precede the short-term.

(2) Above each group of candidates for each office shall be printed the words designating the particular office in boldface capital letters and directly underneath the words, "VOTE FOR," followed by the number to be elected to such office.

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(3) The ballot shall be in a form prescribed by the secretary of state.

Instructions.

Section 101. (1) The registrar shall print on cards instructions to electors on how to vote.

(2) He shall furnish six (6) cards to the election judges in each precinct and one (1) additional card for each fifty (50) registered electors or fractional part of fifty (50) at the same time ballots are furnished.

(3) The election judges shall post at least one (1) card in each compartment provided for the preparation of ballots, and not less than three (3) of the cards elsewhere about the polling place.

(4) The cards shall contain instructions in bold large type:

(a) on how to obtain ballots for voting;

(b) on how to prepare ballots for deposit in the ballot-box;

(c) on how to obtain a new ballot in place of one spoiled by accident;

(d) a copy of Sections 94-1407, 94-1411, 94-1412, 94-1413, 94-1414, and 94-1415, R.C.M. 1947.

(5) Official ballots provided for in chapter 6 of this act shall be posted in each booth or compartment and in three (3) conspicuous places about the polling place.

Polling places.

Section 102. Before the polls are opened or closed that fact must be proclaimed at the place of election.

Delivery of ballots to electors.

Section 103. (1) The election judges must designate two (2) of their number to deliver ballots to electors.

(2) Before delivery, the election judges shall stamp the words "official ballot" on the back and near the top of the ballot. They shall also stamp other words required by Section 86 of this act.

(3) The election clerks shall enter on the poll lists the name of the elector and the number of the stub attached to the ballot given him.

(4) Each elector shall receive one (1) ballot from the election judges.

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Voting booths.

Section 104. (1) All officers who designate polling places shall:

(a) provide in each polling place a sufficient number of booths. The officers must furnish each booth with a door or curtain to screen the voter from observation;

(b) furnish the booths adequately to enable the elector to prepare his ballot;

(c) furnish at least one (1) booth for every fifty (50) electors registered in the precinct.

(2) No more than one (1) person may occupy a booth at one (1) time, and no person may occupy a booth longer than is reasonably necessary to prepare his ballot, after which the election judges may eject him.

Electioneering prohibited on election day.

Section 105. (1) An election officer shall not do any electioneering on election day.

(2) A person shall not do any electioneering on election day, within any polling place, in any building in which an election is being held, or within two hundred (200) feet of the building where the polling place is located.

(3) A person shall not obstruct the entries to a polling place.

(4) An election officer, sheriff, constable, or other peace officer may clear the passageway, prevent any obstruction, and arrest any person obstructing the passageway to a polling place.

(5) A person shall not remove a ballot from the polling place before the closing of the polls.

(6) A person shall not show the contents of his ballot to any other person after it is marked.

(7) A person shall not solicit the elector to show the contents of his ballot; nor shall any person, except the election judge, receive from any elector a ballot prepared for voting.

(8) An elector shall not receive a ballot from any other person than one of the election judges, nor shall any person other than an election judge deliver a ballot to an elector.

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(9) An elector shall not vote any ballot except one received from the election judges.

(10) An elector shall not place any mark upon his ballot by which it may be identified as the one voted by him.

(11) An elector who does not vote a ballot delivered to him shall, before leaving the polling place, return the ballot to the election judges.

Preparation of ballot by voter.

Section 106. (1) On receipt of his ballot, the elector must immediately retire to one of the booths and prepare his ballot.

(2) He shall prepare his ballot by marking an "X" in the square before the name of the person or persons for whom he intends to vote.

(3) If the ballot contains a constitutional amendment, or other question to be submitted to the vote of the people, he shall mark an "X" in the applicable square indicating his vote either for or against the amendment or question.

(4) The elector may write in the blank spaces, or paste over any other name, the name of any person for whom he wishes to vote, and vote for that person by marking an "X" before the name.

(5) After preparing his ballot the elector must fold it so the face of the ballot will be concealed and the endorsements may be seen, and hand it to the election judges who shall announce the name of the elector and the printed or stamped number on the stub in a loud tone of voice. The judge must announce the voter's name and record the name in the pollbook. If the voting is in a city, the voter's residence shall also be announced and recorded in the pollbook.

(6) If the elector is entitled to vote, and if the printed or stamped number is the same as that entered on the pollbooks as the number on the stub, the judge shall receive the ballot, and remove the stub in sight of the elector depositing each ballot in the ballot box and each stub in a box for detached ballot stubs.

(7) Any elector who spoils his ballot may, on returning the spoiled ballot, receive another in place of it.

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Only ballots in box.

Section 107. No person, except an election judge shall put a ballot, any paper resembling a ballot, or any thing other than a ballot in a ballot box. A person violating this section is guilty of a misdemeanor. An election judge who knowingly permits a violation of this act is guilty of a felony.

Placement of ballot in box.

Section 108. If the name of an elector appears in the official register of the precinct, or if the person offering to vote produces a proper registry certificate and his vote is not rejected upon a challenge, the election judge must immediately and publicly in the presence of all the judges, place the ballot in the ballot box without opening or examining it.

Aiding electors.

Section 109. (1) The election judges shall aid an elector, who because of physical disability or inability to read or write, needs assistance in marking his ballot.

(2) The elector shall be assisted by two (2) judges who represent different parties. The disabled elector may request that a qualified elector he designates also aid him in voting. The election judges must certify on the official register opposite the disabled elector's name that the ballot was marked with their assistance and the name of any other elector designated. Neither the judges nor a person who aided the elector may reveal information regarding the ballot.

(3) The election judges shall require the declaration of disability by the elector under oath. They are authorized to administer the oath.

(4) No elector, other than the one who is unable to vote, may divulge to anyone within the polling place the name of any candidate for whom he intends to vote, or ask or receive the assistance of any person within the polling place in the preparation of his ballot.

(5) Instead of assistance, as provided in subsection (2) of this section, the elector may request the assistance of any qualified elector whom he designates to the judges to aid him in the marking of his ballot, and the judges must certify on the official register opposite the name of such disabled elector that it was so marked with their assistance.

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Marking register.

Section 110. (1) The election judges at every general or special election shall, in the precinct register book, mark a cross (X) upon the line opposite to the name of the elector.

(2) Before an elector is permitted to vote, the election judges shall require the elector to sign his name on the place designated in the precinct register.

(3) The election judges shall require an elector not able to sign his name to produce two (2) electors who shall make an affidavit before the election judges, or one (1) of them, in a form prescribed by the secretary of state.

(4) The affidavit shall be filed by the election judges, and returned to the registrar with the returns of the election. One (1) of the judges shall write the elector's name, note the fact of his inability to sign, and the names of the two (2) electors.

(5) If the elector fails or refuses to sign his name, and if unable to write fails to procure two (2) electors who will take the oath required, he shall not be allowed to vote.

(6) Immediately after the canvass of the returns, the election judges shall deliver to the registrar the official register, sealed, with the election returns and pollbook which have been used for the election.

(7) Each precinct shall keep a list of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbook.

Challenge of electors.

Section 111. A person offering to vote may be orally challenged by any elector of the county, upon the following grounds:

(1) that he is not the person whose name appears on the register or checklist;

(2) that he has been adjudicated insane or is confined to a state institution.

(3) that he has voted before that day;

(4) that he has been convicted of a felony and has not been pardoned.

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Oath upon challenge.

Section 112. (1) If the challenge is on the ground that the person is not the person whose name appears on the official register, the election judges shall administer the following oath: "You do swear (or affirm) that you are the person whose name is entered on the official register and precinct list."

(2) If the challenge is on the ground that the person has voted before that day, the judges shall administer this oath: "You do swear (or affirm) that you have not before voted this day."

(3) If the challenge is on the ground that the person has been convicted of a felony, the judges shall administer the following oath: "You do swear (or affirm) that you have not been convicted of a felony."

Determination of challenge.

Section 113. (1) Challenges on the grounds that the person is not the person whose name appears on the official register or that the person has before voted that day are determined in favor of the person challenged by his taking the oath tendered.

(2) A challenge that the person has been convicted of a felony and not pardoned must be determined in favor of the challenged on his taking the oath tendered, unless the conviction is proved by producing an authenticated copy of the record, or by oral testimony of two (2) witnesses.

(a) If a person convicted of a felony states he was pardoned, he must exhibit his pardon or certified copy to the election judges.

(b) If the pardon is found sufficient, the election judges shall administer this oath: "You do swear (or affirm) that you have not been convicted of any felony other than that for which a pardon is now exhibited."

(c) After taking the oath, the person must be allowed to vote if otherwise qualified, unless a conviction of some other felony is proved.

Refusal of oath.

Section 114. If a person challenged refuses to take the oath tendered, or refuses to be sworn and to answer the questions touching the matter of residence, he shall not be allowed to vote.

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Challenges for cause—other.

Section 115. Challenges for causes other than those specified in this chapter must be tried and determined by the election judges at the time of the challenge.

Destruction of ballot.

Section 116. If the challenge is determined against the person offering to vote, the ballot shall, without examination, be destroyed by the election judges in the presence of the person offering the challenge. If determind in his favor, the ballot must be deposited in the ballot box.

List of persons challenged.

Section 117. The election judges shall require each election clerk to keep a list showing:

(1) the names of all persons challenged;

(2) the grounds of each challenge;

(3) the determination of the election judges upon the challenge.

Poll watchers.

Section 118. The election judges shall permit one (1) poll watcher from each political party to station himself close to the poll lists in a location that does not interfere with election procedures. At the time that each elector signs his name, one (1) of the election judges shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name. Poll watchers shall also be permitted to observe all of the vote counting procedures of the judges and all entries of the results of the elections.

Absentee ballots.

Section 119. A qualified registered elector who will be absent from the county or physically incapacitated and unable to go to the polls on the day of election may vote as provided in Sections 119 through 141 of this act.

Form—school district elections.

Section 120. The state superintendent of public instruction shall prepare the form of application for absentee ballots and other forms necessary for school district elections and may make necessary rules to carry out the purpose of this chapter as it pertains to school districts.

Absentee electors.

Section 121. During a period beginning forty-five (45) days before the day of an election and ending at 12 noon on the day before the election, an elector expecting to be absent from the county in which his voting precinct is situated, an elector in United States service, or an elector who will be unable to go to the polls because of

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physical incapacity may apply to the registrar or city clerk for an absentee ballot.

Application.

Section 122. (1) Application for absentee ballots shall be made on a form furnished by the registrar of the county of which the applicant is an elector, the city clerk, or clerk of a first class school district. The form shall be prescribed by the secretary of state except as provided in Section 120 of this act.

(2) The applicant shall subscribe the application and swear to it before an officer authorized to administer oaths. The application is not complete without this affidavit.

(3) Application for an absentee ballot may be made by any elector in the United States service by the federal post card application or by any written request signed by the applicant, addressed to the registrar of the applicant's residence.

Delivery of application.

Section 123. (1) The elector shall forward the application by mail or deliver it in person to the registrar.

(2) The registrar shall compare the signature on the application with the applicant's signature on the registration card. If convinced the person making the application is the same as the one whose name appears on the registration card, he shall deliver the ballot.

Official ballots.

Section 124. (1) Either upon receipt of the application or immediately after the official ballot for the precinct of the applicant's residence has been printed, the registrar, city clerk, or clerk of a first class school district shall send by mail, postage prepaid, whatever official ballots are necessary.

(2) The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post office address of the officer sending it, and upon the other side a printed affidavit in a form prescribed by the secretary of state.

(3) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope shall have printed across the face two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other, with an inter-

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vening space of one-quarter (¼) inch, with the words "Official Election Ballot Material — via Air Mail," between the bars. In the upper right-hand corner shall be printed "Free of U.S. Postage." In the upper left-hand corner shall be blanks sufficient for the recipient to place his return address. All printing on the face of the envelope shall be in red.

(4) The return address shall be self-addressed to the registrar or city clerk.

(5) Instructions for voting shall be enclosed with the ballots for electors in the United States service.

Affidavit.

Section 125. (1) The elector shall complete the affidavit before an officer authorized by law at the place of execution to administer oaths.

(2) The elector shall mark each ballot in the presence of the officer only, in a manner so the officer cannot see the vote.

(3) The ballot shall be folded by the elector to conceal the vote in the presence of the officer and the elector shall, in the officer's presence, place it in the envelope and seal it.

(4) The officer shall sign at the end of the certificate and affidavit.

(5) The elector shall mail the envelope, postage prepaid, or deliver it to the registrar, city clerk, or clerk of a first class school district.

Receipt of envelopes.

Section 126. (1) Upon receipt of the envelope, the registrar, city clerk, or clerk of a first class school district shall immediately enclose it in a larger envelope, together with the elector's application and seal it.

(2) The registrar, city clerk, or clerk of a first class school district shall safely keep it in his office until delivered or mailed by him.

Receipt of absentee ballots.

Section 127. (1) If the absentee ballot is received prior to delivery of the official ballots to the election judges, the registrar or clerk shall deliver the larger envelope to the judges at the same time the ballots are delivered.

(2) If the absentee ballots are received after the ballots are delivered to the election judges, the registrar or

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clerk shall immediately deliver the larger envelopes by mail postage prepaid to the judges.

(3) If absentee ballots are received by the registrar or clerk for which application was not received prior to 12 noon on the day preceding an election, the clerk shall endorse upon the voter's envelope the date and exact time of receipt and the words "To be rejected." Absentee ballots so endorsed shall be delivered to the election judges of the precinct and shall be rejected.

(4) If an elector votes absentee ballot and dies between the time of balloting and election day, his ballot will not count.

Numbering of ballots.

Section 128. (1) The absentee ballots delivered shall be regular official ballots beginning with ballot number one (1) and following consecutively, according to the number of applications for absentee ballots.

(2) The registrar, city clerk, or school district clerk shall keep a record of all absentee ballots delivered, as well as of ballots marked before him.

(3) The registrar, city clerk, or school district clerk shall deliver to the election judges to whom the ballots are delivered a certificate stating the number of absentee ballots delivered as well as those marked before him, and the names of the voters to whom such ballots are delivered, or by whom they have been marked if marked before him.

Notation of pollbooks.

Section 129. (1) The election judges, at the opening of the polls, shall note on the pollbooks opposite the numbers corresponding to the number of absentee ballots issued the fact that the ballots were issued and reserve the numbers for the absent or physically incapacitated voters. The notation may be made by writing the words "absent or physically incapacitated voters" opposite the numbers.

(2) The election judges shall insert only the names of the elector entitled to each particular number according to the certificate of the registrar or city clerk and the number of his ballot.

(3) Any absentee ballots which have been rejected shall be placed with the voter's application and the absent or physically incapacitated voter's envelope furnished by the registrar or city clerk.

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(a) This envelope shall be sealed and endorsed by the words, "rejected absentee ballots," numbered ....., and shall put on it the number of the absentee ballots. given according to the registrar's or city clerk's certificates.

(b) There shall be a separate enclosing envelope for the absentee ballots rejected, and the envelopes shall be placed in an envelope together with other ballots, and shall not be opened without a court order.

Voting before election day.

Section 130. (1) An elector who is present in his county after the official ballots of his county or school district have been printed who has reason to believe that he will be absent from the county or school district or physically incapacitated on election day, may vote before election day before the registrar, city clerk, or school district clerk ,or some officer authorized to administer oaths and having the official seal.

(2) The provisions of this chapter apply to such voting.

(3) If the ballot is marked before the registrar, city clerk, or school district clerk, he shall deal with it in the same manner as if it had come by mail.

Counting absentee ballots.

Section 131. (1) While the polls are open on election day, the election judges shall first open the outer envelope only, and compare the signature of the voter on the application and on the affidavit.

(2) If the election judges find that the signatures correspond, that the affidavit is sufficient, and that the absentee elector is qualified and has not yet voted, they shall open the absentee voter's envelope and take out the ballot or ballots and, without unfolding it or permitting it to be examined, ascertain whether the stub is still attached and whether the number corresponds to the number in the certificate of the registrar or city clerk.

(3) If so, they shall endorse it the same way that other ballots are endorsed, detach the stub, deposit the ballots in the proper ballot boxes, and make entries in their election records to show the elector has voted.

(4) If the affidavit is found defective, the numbers do not correspond, or the voter is unqualified, the election judges, without opening the absentee ballot, shall

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mark across the face of it "rejected as defective" or "rejected as not an elector."

(5) The absentee ballot envelope, when it has been voted or rejected, shall be deposited in the ballot box containing the general or party ballots, and shall be retained and preserved in the manner provided for official ballots.

(6) If, upon opening the absentee ballot envelope, it is found that the stub of any ballot has been detached, or that the number does not correspond to the number on the certificate of the registrar or clerk, the ballot shall be rejected. It shall be marked on back as "rejected for .....," filling the blank with the reason. This statement shall be dated and signed by a majority of the election judges.

(7) The rejected ballots, together with the absentee ballot envelope bearing the application shall be enclosed in an envelope, sealed, and the judges shall write on the envelope, "rejected ballot of absentee voter" (writing in the elector's name). "The rejected ballot(s) is (are) ....."

(8) The election judges shall designate the rejected ballot as "general ballot," if it is a ballot for candidates that are rejected.

(9) If the rejected ballot is on a question submitted to the vote of the electors, the judges shall designate it as ballot question No. ..... in the certificate on the envelope.

(10) A separate enclosing envelope shall be used for each absentee ballot rejected. This envelope shall be placed in the envelope in which the other ballots voted are required to be placed and shall not be opened without a court order.

(11) The registrar or clerk shall provide and deliver to the election judges suitable envelopes for enclosing rejected absentee ballots.

Rejected ballots.

Section 132. If the envelope containing the absentee ballot has been marked "rejected as defective" and deposited in the ballot box, the elector appearing has the same right to vote as if he had not attempted to vote as an absent or physically incapacitated voter. If voting

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machines are used, he shall vote by machine as other voters.

Unopened ballots.

Section 133. If an envelope containing an absentee ballot has been deposited unopened in the ballot box, the envelope shall be opened without a court order and the ballot cast.

Precincts having voting machines.

Section 134. (1) In precincts where voting machines are used, the registrar, city clerk, or clerk of a school district shall print and provide ballots in official form for possible absent or physically incapacitated voters, and also pollbooks and ballot boxes required for precincts in which printed ballots are used.

(2) Absentee ballots received in those precincts shall be handled as provided in this chapter.

(3) In making the official canvass, the votes cast by absentee ballot shall be added to the votes cast on the voting machines.

False swearing to affidavit.

Section 135. (1) If a person willfully swears falsely to any affidavit he is guilty of perjury.

(2) If the registrar, clerk, or any election officer:

(a) refuses or neglects to perform any duties prescribed by this act,

(b) makes false statements in his certificate regarding affidavits,

(c) looks at any marks made by the voter upon the ballot,

(d) allows any person other than the voter to be present at the marking of such ballot,

(e) sees any marks made by the voter on the ballot, he is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500), imprisoned in the county jail for not more than six (6) months, or both.

"Elector in the United States service."

Section 136. "Elector in the United States service" means:

(1) a member of the armed forces in the active service, and his spouse and dependents;

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(2) a civilian employee of the United States in all categories serving outside the territorial limits of the several states of the United States or in the District of Columbia and his spouse and dependents when residing or accompanying him;

(3) a member of a religious group or welfare agency assisting members of the armed forces of the United States who are officially attached to and serving the armed forces, and his spouse and dependents.

Registration.

Section 137. (1) An elector in United States service who is absent from the state is entitled to register by mailing to the registrar a federal post card application filled out and signed under oath.

(2) The form of the federal post card application, which may be used both as an application for registration and for a ballot, shall be prescribed by the secretary of state.

Oath.

Section 138. (1) Any oath required for electors in the United States service to register, request a ballot, or vote, may be administered and attested, within or without the United States, by any commissioned officer in active service, or any civilian official empowered by state or federal law to administer oaths.

(2) No official seal is required to be affixed to the oath and neither the elector nor the certifying officer need disclose his whereabouts at the time of taking the oath except to the extent required by the federal post card application.

Federal post card application.

Section 139. (1) Upon receipt by the registrar of a federal post card application properly filled out and signed under oath, the registrar shall classify the application according to the precinct in which the elector resides and arrange the cards in each precinct in alphabetical order.

(2) The registrar shall, upon receipt of any federal post card application, immediately enter upon the official register of the county in the proper precinct the full information given by the elector.

(3) If an elector in the United States service has not already requested an absentee ballot, the registrar shall,

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immediately upon entry in the official registry of the name of the elector send to him by the fastest mail service available a notice that he has been registered and informing him that in order to secure a ballot he must mail at any time within forty-five (45) days preceding the election another federal post card application to his registrar or city clerk.

Registration by card.

Section 140. (1) An elector who is unable to make personal application for registration by reason of being absent from the county, may register to vote prior to the close of registration before any election, by appearing, executing and verifying under oath, before a notary public or other officer empowered to administer oaths, at any place within the United States, a registration card as provided in sections 119 through 141 of this act.

(2) He must return the card in sufficient time to reach the registrar before the close of registration.

(3) The elector's name may not be entered in the official register until at least two (2) registered electors of the county in which the elector desiring to be registered has his place of residence as stated in his application for registration, appear before the registrar and make affidavits in writing, stating that they are personally acquainted with the applicant, are familiar with and know his signature, and have seen him write and that the signature subscribed to the application or registration is the signature of the elector.

Furnishing of registration cards.

Section 141. (1) The registrar of the county of the elector's legal residence shall furnish to any elector applying, whether application be made by mail, telegram or telephone, a registration card.

(2) The card shall be sent postage prepaid by the registrar to the address furnished by the elector at the time of making his application.

Examination of machines by secretary of state.

Section 142. (1) Before any voting machine can be used, the secretary of state shall:

(a) examine the machine to determine if it complies with the requirements of sections 142 through 163 of this act.

(b) within thirty (30) days after examining a ma-

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chine, file a report in his office on each machine examined;

(c) within five (5) days after filing the report, transmit to the commissioners, city council, or other board having control of elections in each county or city a list of the machines approved.

(2) A machine shall not be used unless approved by the secretary of state sixty (60) days or more prior to the election.

(3) The secretary of state may employ qualified mechanics who are electors to assist him in duties required by this chapter and compensate them.

(4) The person or company submitting a machine for examination before the filing of the report shall pay the compensation and expenses of mechanics connected with the examination to the secretary of state for deposit in the state general fund.

Criteria for machines.

Section 143. (1) A machine or machine system may not be approved unless:

(a) an elector can vote in secrecy as he is entitled to vote by law;

(b) an elector is prevented from voting for any candidate or upon any question more than once and is also prevented from voting for any person or on any proposition, if he is not entitled to vote;

(c) an elector can vote a split ticket if he desires;

(d) every vote cast is registered and recorded.

(2) The candidates for president and vice-president shall appear on the machine ballot. Presidential electors shall not appear on the machine.

(3) The machine or machine system must be constructed so that it cannot be tampered with for a fraudulent purpose and must also be constructed so that during the progress of the voting no person can see or know the number of votes registered for any candidate or on any proposition.

Providing voting machines.

Section 144. (1) Commissioners and councils may provide approved voting machines as practicable.

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(2) Not later than September 10, prior to a general election, the commissioners or council of a city may unite two (2) or more precincts to use a voting machine. Notice of the consolidation shall be given as provided by law for the change of election districts.

(3) Funds for voting machines may be provided by interest-bearing bonds, certificates of indebtedness, or other obligations. The term of the bonds, certificates, or other obligations may not exceed ten (10) years and they shall not be issued or sold at less than par.

Setting voting machines.

Section 145. (1) The registrar or city clerk shall put the proper ballots upon each voting machine corresponding with the sample ballots. The registrars or city clerks shall also:

(a) set, adjust, and put the machines in order;

(b) deliver the machines to the precincts together with necessary furniture and appliances;

(c) place a shield painted black and marked "not in use" over the keys or levers not in use on the voting machine.

(2) In primary elections a separate row or column shall be assigned to each political party and at least one (1) row shall separate the rows assigned to the two (2) major political parties. This row shall be used for the nonpartisan judicial ballot.

(3) In general elections the ballot shall be arranged and the names of the candidates rotated to conform as nearly as possible to the requirements for paper ballots.

(4) Candidates of the two (2) major parties shall be rotated between the first two (2) horizontal rows or vertical columns, and candidates of minor parties and independent candidates shall be rotated between succeeding rows or columns.

(5) The party designation of each candidate shall appear below his name in type as large as machine design will allow.

(6) The judicial ballot shall appear in the first two (2) horizontal or vertical rows or columns as prescribed by section 96 of this act.

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(7) The election judges shall compare the ballots on the machine with sample ballots, insure that all counters are set at zero and the machine is in order. They shall not thereafter permit the machine to be operated or moved except by electors voting. They shall also see that arrangements are made for voting write-in ballots on the machine, if the machine is so arranged.

Write-in ballots.

Section 146. (1) If a voting machine allows registry or recording of votes for candidates whose names are not on the official ballot, these ballots are write-in ballots.

(2) A person whose name appears on a ballot shall not receive votes for the same office on a device for casting a write-in ballot.

Placement of voting machines.

Section 147. (1) The exterior of the voting machines and every part of the polling place shall be in plain view of the election judges.

(a) The machines shall be placed so that other persons on the premises cannot see how the voter casts his vote.

(b) The election judges shall not permit any person to remain in any position that would permit him or them to see how the voter votes or has voted.

(c) A voter shall not remain within the voting machine booth or compartment longer than is reasonably necessary to vote. If he refuses to leave, the election judges shall remove him.

(2) The election board of a precinct in which a voting machine is used consists of three (3) election judges and any special board of election judges appointed to count absentee ballots. If more than one (1) machine is used, one (1) additional election judge shall be appointed for each additional machine.

Instruction of judges.

Section 148. (1) Before each election, the registrar shall instruct all election judges in the use of the machine and their duties. He shall give to each election judge that has received instruction, and is fully qualified to conduct the election with the machine, a certificate to that effect.

(2) The registrar shall call meetings of the election judges as necessary for instruction. Election judges shall

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attend meetings as necessary to receive the proper instructions.

(3) An election judge shall not serve if voting machines are used unless he has received instruction, is fully qualified to perform duties in connection with the machine, and has received a certificate to that effect from the custodian. However, this shall not prevent an emergency appointment of an election judge.

Voting machine publication.

Section 149. Not more than ten (10) nor less than three (3) days before an election at which voting machines are used, the registrar or city clerk shall publish in a newspaper of general circulation in the county:

(1) a diagram showing the voting machine with official ballot labels;

(2) a statement of the locations where voting machines are on public exhibition;

(3) illustrated instructions on how to vote.

Exhibition of voting machines.

Section 150. A voting machine shall be on exhibition in the office of the registrar or city clerk where voting machines are used. The registrar or city clerk shall demonstrate the voting machine to any inquiring voter.

Samples of printed materials.

Section 151. (1) Not later than forty (40) days before an election, the secretary of state shall prepare samples of the printed matter and supplies named in this section and furnish one of each to the election officials where machines are used. The samples shall meet the requirements of the election and the construction of the machine used.

(2) The registrar or city clerk shall provide supplies for each machine including:

(a) written instructions for the election judges on testing and preparing the machines;

(b) a certificate for the election judges to certify that they have tested and prepared the machine;

(c) a certificate for the person preparing the machine to certify that the machine has been examined and is properly prepared for the election;

(d) a certificate for party representatives to verify

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that they have witnessed the testing and preparation of the machines;

(e) a certificate for the deliverer of the machine to certify that he has delivered the machines to the polling places in good order;

(f) a card stating the penalty for tampering with or injuring a voting machine;

(g) two (2) seals for sealing the voting machine;

(h) one (1) envelope with a detachable delivery receipt in which the keys to the voting machine can be sealed and delivered to the election officials having printed on it the designation and location of the election district, the number of the machine, the number on the protective counter after the machine has been prepared for the election, and the number of the seal;

(i) one (1) envelope in which keys to the voting machine can be returned after the election;

(j) two (2) statements of canvass for election officers to report the canvass of votes and other necessary information relating to the election;

(k) three (3) complete sets of ballot labels in a form prescribed by the secretary of state and two (2) diagrams of the face of the machine with the ballot labels on the machine, each having proper voter instructions;

(l) six (6) instructions to election judges and six (6) notices of the instruction meeting;

(m) six (6) certificates that election judges have attended the instruction meeting, received instruction, and are qualified to conduct the machine election.

Registry lists.

Section 152. If voting machines are used, the registry lists shall contain a column to enter the number of each ballot as indicated by the number on the machine counter. Books or blanks for making poll lists shall not be provided.

Disabled voters.

Section 153. A voter who declares he is unable to vote because he cannot read or write, is blind, or physically disabled shall be assisted as provided in Section 109 of this act.

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(2) A person who deceives an elector voting under this section shall be punished as provided in Section 94-1407, R.C.M. 1947.

Locking of machines at close of polls.

Section 154. When the polls close, the election judges shall immediately lock the machine or remove the recording device and open the registering or recording compartments in the presence of any person desiring to attend. They shall ascertain the number of votes cast for each candidate, canvass, record, announce, and return the votes as provided by law.

Closing—view of machine.

Section 155. (1) After the count is ascertained, the election judges shall place the machine in full view of the public for one (1) hour so that any person may view the number of votes cast.

(2) Immediately after the hour has passed, the election judges shall seal and lock the machine. Unless used in a city primary election or ordered opened earlier by a court or the county recount board, the machine shall remain sealed and locked for twenty (20) days.

(3) If a machine has been used in a city primary election, it shall remain locked and sealed for at least five (5) days, unless opened by court order.

Write-in ballots.

Section 156. (1) The election judges shall return write-in ballots in a sealed package endorsed "write-in ballots." The election judges shall indicate the precinct and county and file the package with the registrar or city clerk. Each package shall be preserved for six (6) months after the election and may be opened only upon order of a court or the county recount board. At the end of six (6) months, the package shall be destroyed by the registrar or city clerk unless a court orders otherwise.

(2) Tally sheets taken from the machine, if any, shall be returned in the same manner.

Return sheets.

Section 157. Officers who furnish tally sheets shall also furnish return blanks and certificates to the election officers. The return sheets shall:

(1) have each candidate's name designated by the same reference character that the name bears on the ballot labels and counters and allow for writing in a vote for the candidate in figures, words, or both;

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(2) provide for the return of the vote on questions;

(3) have a blank for indicating the precinct, ward, number and make of machine used, and other necessary information;

(4) have a certificate to be executed before the polls open by the election judges stating that all counters except the protective counter, if any, and except as otherwise noted, stood at "000" at the beginning of the election, that all counters were examined before the election, that ballot labels were correctly placed on the machine and corresponded to the sample ballot, and other statements as the particular machine may require;

(5) have a second certificate stating the manner of closing the polls and verifying the returns; that the returns are correct; giving the indication of the public counter, poll list, and protective counter, if any. The certificate shall specify the procedure of canvassing the vote and locking the machine and shall be signed by the election officials. The certificate and attest of the election officers shall appear on each return sheet.

Experimental use of machine.

Section 158. Officials authorized to adopt voting machines, may provide for the experimental use at an election of a machine, approved by the secretary of state, in one (1) or more precincts without a formal adoption or purchase of the machine. The use at an election is valid for all purposes as if the machine had been formally adopted.

Unworkable machine.

Section 159. (1) If a machine becomes unworkable or unfit for use, voting shall proceed on another available machine or as in cases where machines are not used. The registrar shall furnish each voting place with a supply of ballots and other supplies to be used in case of emergency.

(2) Where voting machines are used, an elector may request to vote by paper ballot instead of using the voting machines. The election judges shall provide the elector with a paper ballot when requested. Paper ballots shall be cast and counted by the election judges in the manner provided by law.

Machine lockout—ballots.

Section 160. In precincts where voting machines are used and the machines do not allow proper lockout, sep-

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arate paper ballots shall be issued for money issues which do not involve the question of incurring of a state indebtedness, issuance of state bonds or debentures other than for refunding, or the levy of a tax for state purposes.

Violation—penalty.

Section 161. Any person who tampers, disarranges, defaces, injures, or impairs a voting machine in any way, or who mutilates, injures, or destroys any ballot or any appliance used in connection with a voting machine shall be imprisoned in the state prison for a period of not more than ten (10) years, be fined not more than one thousand dollars ($1,000), or both.

Same.

Section 162. A person who purposely causes the vote on a machine to be incorrectly taken down as to the candidate or proposition voted on; who knowingly causes a false statement, certificate, or return of any kind to be signed or who knowingly consents to such things being done, shall be imprisoned in the state prison not more than (10) years, be fined not more than one thousand dollars ($1,000), or both.

Same.

Section 163. All laws applicable to elections where voting is not done by machine, and all penalties prescribed for violations of those laws, apply to elections and precincts where voting machines are used if they are not in conflict with the provisions of Sections 142 through 162 of this act.

Electronic voting systems.

Section 164. The purpose of Sections 165 through 170 of this act is to authorize the use of electronic voting systems in which the voter records his votes by means of marking or punching a ballot or one or more ballot cards, which are so designed that votes may be counted by data processing machines at one or more counting places.

Section 165. As used in Sections 166 through 170 of this act, unless otherwise specified:

"Automatic tabulating equipment."

(1) "Automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results.

"Ballot card."

(2) "Ballot card" means a ballot which is voted by the process of punching.

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(3) "Ballot labels" means the cards, paper, booklet, pages or other materials containing the names of offices and candidates and statements of measures to be voted on. "Ballot labels."

(4) "Ballot" may include ballot cards, ballot labels and paper ballots. "Ballot."

(5) "Counting location" means a location selected by the registrar or city clerk for the automatic processing or counting, or both, of ballots which may be in the same county or in another county. "Counting location."

(6) "Electronic voting system" means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment. "Electronic voting system."

(7) "Marking device" means either an apparatus in which ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment. "Marking device."

Section 166. (1) Electronic voting systems may be used in elections, after approval as provided by law, provided that such systems enable the voter to cast a vote in secrecy for all offices and all measures on which he is entitled to vote, and that the automatic tabulating equipment may be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast, or when the voter is not by law entitled to cast a vote for the office or measure. Criteria for electronic voting systems.

(2) Electronic voting systems may be used at primary elections provided the voter can secretly select the party for which he wishes to vote, and the automatic tabulating equipment will count only votes for the candidates of one party, and will reject all votes for an office when the number of votes therefore exceeds the number which the voter is entitled to cast, and will reject all votes of a voter cast for candidates of more than one party.

(3) So far as applicable, the procedure provided for voting paper ballots shall apply.

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(4) The governing body of any county or city may, after approval as provided by law, adopt, experiment with, or abandon any electronic voting system herein authorized and approved for use in the state, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots. It may enlarge, consolidate or alter the boundaries of the precincts where an electronic voting system is to be used.

(5) In precincts where an electronic voting system is used, an elector may request a paper ballot to cast his vote and the election judges shall supply the elector with the paper ballot when so requested. These ballots will be cast and counted by the election judges in the manner provided by law.

Voting booths and ballots.

Section 167. (1) In precincts where an electronic voting system is used, a sufficient number of voting booths shall be provided for the use of such systems and the booths shall be arranged in the same manner as provided for use with paper ballots.

(2) The officials charged with the duty of providing ballots, ballot cards or ballot labels for any polling place shall provide therefor sample ballots, ballot cards or ballot labels which shall be exact copies of the official ballots which are caused to be printed by them; said sample ballots shall be arranged in the form of a diagram showing the front of the marking device as it will appear after the ballots are arranged therein for voting on election day. Such sample ballots shall be posted by the election judges near the entrance of the voting booths and shall be there open to public inspection during the whole of election day.

(3) The ballot information, whether placed on the ballot or on the marking device, shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or on a number of separate pages. Ballots for all questions must be provided in the same manner and must be arranged on or in the marking device in the places provided for such purpose. Any voter who spoils his ballot or ballot card or makes an error may return it to the election board and secure another.

(4) A separate write-in ballot, which may be in the

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form of a paper ballot, card or envelope in which the elector places his ballot card after voting shall be provided where necessary to permit electors to write in the names of persons whose names are not on the ballot.

(5) The registrar or city clerk shall cause the marking devices to be put in order, set, adjusted and made ready for voting when delivered to the election precincts. Before the opening of the polls the election judges shall compare the ballots used in the marking device with the sample ballots furnished, and see that the names, numbers and letters thereon agree, and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.

(6) Within five (5) days prior to the election day, the registrar or city clerk shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior thereto by publication once in one or more daily or weekly newspapers published in the county, city, or town using such equipment if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a pre-audited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots, in the same manner as set forth above. After the completion of the count, the programs used and ballots shall be sealed, retained and disposed of as provided for paper ballots.

Securing marking devices at close of polls—ballots.

Section 168. (1) In precincts where an electronic voting system is used, as soon as the polls are closed, the election judges shall secure the marking devices

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against further voting. They shall thereafter open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the poll or registry lists. If there is an excess, this fact shall be reported in writing to the appropriate election officer in charge with the reasons therefor, if known. The total number of voters shall be entered on the tally sheets. The election judges shall thereupon count the write-in votes and prepare a return of such votes on forms provided for this purpose. If ballot cards are used, all ballots on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the ballot card of the voter. The inspectors or other appropriate precinct election officials shall compare the write-in votes with the votes cast on the ballot card and if the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and it shall be returned to the counting location in an envelope marked "defective ballots" and such invalid votes shall not be counted. So far as applicable, provisions relating to defective paper ballots shall apply.

(2) The election judges shall place all ballots that have been cast in the container provided for that purpose, which shall be sealed and delivered forthwith by the election judges to the counting location or other designated place, together with the unused, void and defective ballots and returns.

(3) All proceedings at the counting location shall be under the direction of the registrar or city clerk under the observation of at least three election judges designated by the commissioners or city council and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of a defective ballot which shall not include the invalid votes. All duplicate

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ballots shall be clearly labeled "duplicate," shall bear a serial number which shall be recorded on the damaged or defective ballot and shall be counted in lieu of the damaged or defective ballot.

(4) The return printed by the automatic tabulating equipment, to which has been added the return of write-in and absentee votes, shall constitute the official return of each precinct or election district. Upon completion of the count the returns shall be open to the public.

Rules and regulations—specifications for devices and equipment.

Section 169. Rules and regulations-specifications for devices and equipment. (a) The secretary of state, state auditor and president of the Montana county clerk and recorders association shall constitute a board of election devices, which shall promulgate rules for the administration of this section, and shall approve the marking devices and automatic tabulating equipment used in electronic voting systems.

(b) No marking device or automatic tabulating equipment shall be approved unless it fulfills the following requirements:

(1) It shall permit and require voting in absolute secrecy.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one (1) party or to vote a split ticket as he desires.

(3) It shall permit each elector, at presidential elections, by one (1) punch or mark to vote for the candidates of that party for presidential elector as a group.

(4) It shall comply with all other requirements of the election laws so far as they are applicable.

(5) No electronic voting system presently in use by any county, city or town in Montana shall be disapproved for use in such county, city or town by the board, except upon application by the governing body of said county, city or town.

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Laws applicable.

Section 170. All laws of this state applicable to elections where voting is done in another manner than by electronic voting systems and all penalties prescribed for violation of such laws, shall apply to elections and precincts where electronic voting systems are used, in so far as they are not in conflict with the provisions of Sections 164 through 169 of this act.

Canvass of votes.

Section 171. When the polls are closed, the election judges shall immediately canvass the votes. The canvass shall be public and continue without adjournment until completed and the result is publicly declared.

Comparison of pollbooks.

Section 172. (1) The canvass shall begin by a comparison of the pollbooks and the correction of any mistakes until they agree.

(2) The election judges shall take ballots unopened out of the box to determine whether each ballot is single.

(3) They shall count the ballots to insure that the number of ballots corresponds with the number of names on the pollbooks.

(4) A ballot which is not endorsed by the official stamp is void and shall not be counted. A ballot or part of a ballot is void and shall not be counted if the elector's choice cannot be determined. If a part of a ballot is sufficiently plain to determine the elector's intention, the election judges shall count that part.

(5) If two (2) or more ballots are folded together to look like a single ballot, they shall be laid aside until he count is complete. The election judges shall compare the count with the pollbooks and if a majority believe that the ballots folded together were voted by one (1) elector, they must be rejected; otherwise they must be counted.

(6) If the ballots exceed the number of names on the pollbooks they shall be placed in the box, and one (1) of the election judges shall publicly draw from the box and destroy unopened ballots equal to the excess. The election judges shall record in the pollbooks the number of ballots destroyed.

Count of votes.

Section 173. (1) When the ballots and poll lists agree, the election judges shall count and determine the votes cast for each person.

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(2) In counting, the ballots shall be opened singly by one (1) of the election judges and the contents read aloud to the other judges.

(3) As the ballots are read, each clerk must write on a tally sheet the name of every person voted for and the office, and keep tallies of the number of votes for each person.

(4) The tally sheets shall be compared and their correctness ascertained, and the clerks, under the supervision of the election judges, shall immediately write in the pollbooks:

(a) the names of all persons who received votes;

(b) the offices for which they received votes;

(c) total votes received by each person as shown by the tally sheets.

(5) A ballot or vote rejected by the election judges shall not be included in the count.

Rejected ballots.

Section 174. A ballot rejected for illegality shall be marked by the election judges, by writing across the face "Rejected on the ground of.....," filling the blank with a brief statement of the reasons for the rejection. The statement shall be dated and signed by a majority of the judges.

Signing of pollbooks.

Section 175. Immediately after the votes are counted and the ballots sealed up, the pollbooks shall be signed and certified to by the election judges and clerks in a form prescribed by the secretary of state.

Delivery of documents to registrar.

Section 176. (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely sealed and directed to the registrar:

(a) the precinct registers,

(b) the lists of persons challenged,

(c) both of the pollbooks,

(d) both of the tally sheets.

(2) The election judges shall enclose in a separate package or envelope, securely sealed and directed to the

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registrar, all unused ballots with the numbered stubs attached.

(3) The election judges shall enclose in a separate package or envelope, securely sealed and directed to the registrar, all ballots voted including those not counted or allowed, and all detached stubs from ballots voted. This envelope shall be endorsed on the outside "ballots voted."

(4) Each election judge shall write his name across the seal of each of the envelopes or packages. The ballot box shall be returned to the registrar.

(5) The envelopes or packages required by this section shall be delivered to one (1) of the election judges chosen by lot, unless otherwise agreed upon, before they adjourn. The judge shall deliver them to the registrar in person or by registered mail not later than 10 a.m. on the day following the election.

Filing of election records.

Section 177. (1) When the registrar receives the packages or envelopes, he shall file those containing the ballots voted and detached stubs and the unused ballots and keep them unopened for twelve (12) months. After twelve (12) months, if there is no contest begun in a court or no recount, he shall burn the envelopes without opening them or examining their contents.

(2) The registrar shall file the envelopes or packages containing the precinct registers, certificates of registration, pollbooks, tally sheets, and oaths of election officers. He shall keep them unopened until the commissioners meet to canvass the returns. The commissioners shall open the envelopes or packages.

(3) Immediately after the returns are canvassed, the registrar shall file the pollbooks, election records, and the papers delivered to the commissioners.

Contest—destruction of election records.

Section 178. If there is a contest within twelve (12) months, the registrar shall keep the envelopes or packages unopened until the contest is finally determined and then destroy them. If the court has custody of the envelopes or packages as evidence, they are in the custody of the court and the registrar shall not destroy them.

Board of canvassers.

Section 179. (1) The commissioners are ex officio a board of county canvassers and shall meet as the board

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of county canvassers at the usual place of meeting of the commissioners within three (3) days after each election, at 8 a.m. to canvass the returns.

(2) If one (1) or more of the commissioners cannot attend the meeting, his place shall be filled by one (1) or more county officers in this order: treasurer, assessor, sheriff, so that the board of county canvassers membership equals membership on the board of commissioners.

(3) The registrar is clerk of the board of county canvassers.

Meeting.

Section 180. (1) If all returns are in at the time of the meeting, the board of county canvassers shall immediately canvass the returns.

(2) If all returns are not received, the board shall postpone the canvass from day to day until all returns are received or until there have been seven (7) postponements.

(3) If the returns from an election precinct have not been received by the registrar within seven (7) days after an election, he shall immediately send a messenger to the election judges. The messenger must obtain the returns from the judges and return them to the registrar.

(4) If it appears to the board that the polls were not open in a precinct, the board shall certify this to the registrar. The registrar shall enter the certification in the minutes and in the statement required by Section 182 of this act.

Canvass—method.

Section 181. (1) The canvass shall be public. It shall proceed by opening the returns and determining the vote for each person and each proposition from each precinct and a declaration of the results.

(2) The returns shall not be rejected if they do not show who administered the oath to the election judges or clerks, failure to complete all the certificates in the pollbooks, or failure of any other act making up the returns that is not essential to determine for whom the votes were cast.

Results.

Section 182. As soon as the results are declared, the clerk of the board shall enter on the records:

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(1) votes cast in the county;

(2) names of the persons voted for and the propositions voted upon;

(3) office for which each person was voted for;

(4) votes by precinct for each person and for and against each proposition;

(5) votes by county for each person, and for and against each proposition.

Votes—persons elected—recount.

Section 183. (1) The board shall declare elected the persons having the highest number of votes given for each office to be filled in a single county or subdivision of a county.

(2) If a recount shows that two (2) or more persons received an equal and sufficient number of votes for the office of state senator or state representative, the county recount board shall certify this to the governor.

Certificate of election.

Section 184. (1) The clerk shall immediately deliver to each person elected a certificae of election signed by him and authenticated with the seal of the board.

(2) The certificate shall state that the official bond must be filed within thirty (30) days after notice of election or appointment and that failure to file the bond vacates the office.

(3) This certificate shall not be issued to persons elected district judge.

Abstract of vote.

Section 185. (1) After a general or special election, the clerk shall make an abstract of the vote for members of the legislative assembly, for officers elected in the state at large, and for judicial officers other than justices of the peace.

(2) The clerk shall seal the abstract, endorse it "Election Returns," and immediately send it to the secretary of state by registered mail.

Board of state canvassers.

Section 186. Within twenty (20) days after the election, or sooner if the returns are all received, the state auditor, state treasurer, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary

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of state, who is secretary of the board, shall make out and file in his office a statement of the canvass and transmit a copy to the governor.

Returns to state board.

Section 187. If the returns from all counties have not been received five (5) days before the meeting of the board of state canvassers, the secretary of state shall immediately send a messenger to the registrar of each delinquent county. The registrar shall furnish the messenger with a certified copy of the statement required by Section 182 of this act.

Issuance of commissions.

Section 188. Upon receipt of the statement required by section 186 of this act, the governor shall issue commissions to the persons elected. If the governor has been elected to suceed himself, the secretary of state shall issue the commission.

Defects.

Section 189. No declaration of an election result, commission, or certificate shall be withheld because of a defect or informality in the returns of any election if it can be determined with reasonable certainty the office intended and the person elected.

Recount—procedure.

Section 190. (1) Within five (5) days after the canvass of election returns, an unsuccessful candidate for any public office at a general, special, or city election may apply to the district court of the county where the election was held for an order directing the canvassing body to make a recount of the votes cast in any or all of the precincts.

(2) The application shall specify the grounds for a recount and be verified by the applicant that the matters contained in it are true to the best of the applicant's knowledge, information, and belief.

(3) Within five (5) days after filing of the application, the judge shall hear the application and determine its sufficiency.

(4) If the judge finds there is probable cause to believe that the votes cast for the applicant were not correctly counted, he shall order the board of county canvassers to assemble within five (5) days after the order is issued at a time and place fixed by the order. The board shall meet and recount the ballots as specified in the order.

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Recount to cover.

Section 191. The board of canvassers shall recount votes only in those precincts and for those offices specified in the court order.

Criteria for recount.

Section 192. A recount shall be made under any of the following conditions.

(1) If a candidate other than for the office of district judge is defeated by a margin not exceeding one-fourth of one per cent (¼ of 1%) of the total votes cast or by a margin not exceeding ten (10) votes, whichever is greater, he may within five (5) days after the official canvass file with the registrar a verified petition stating he believes a recount will change the result and a recount of the votes for the office or nomination should be had.

(2) If a candidate is defeated for the office of district judge or an office voted on in more than one (1) county by a margin not excedeing one-fourth of one percent (¼ of 1%) of the total votes cast for all candidates for the same position, he may within five (5) days after the official canvass file a petition with the secretary of state as set forth in subsection (1) of this section. The secretary of state shall immediately notify each registrar whose county includes any precincts which voted for the same office by registered mail and a recount shall be conducted in those precincts.

(3) If a question submitted to the vote of the people of the state is decided by a margin not exceeding one-fourth of one percent (¼ of 1%) of the total votes cast for and against the question, a petition as set forth in subsection (1) of this section may be filed with the secretary of state. This petition shall:

(a) be signed by not less than one hundred (100) electors of the state representing at least five (5) counties of the state and be filed within five (5) days after the official canvass;

(b) the secretary of state shall immediately notify each registrar by registered mail of the filing of the petition and a recount shall be conducted in all precincts in each county.

(4) If there is a tie vote, the board making the canvass shall certify the vote to the registrar if the election

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took place only in one (1) county and to the secretary of state for other elections. The registrar or secretary of state shall proceed as if a petition for recount had been filed under this act. If a tie exists after the recount, the tie shall be resolved as provided by law.

Incorrect count.

Section 193. If it appears from a verified application that the election judges or clerks failed to comply with the provision of Section 173 of this act, that is sufficient cause for believing that the election judges and clerks did not correctly ascertain the number of votes cast for the applicant.

Disqualification of judge.

Section 194. (1) If the judge of the district court of the county in which the election is held is for any reason disqualified from acting, the judge or a supreme court justice shall order another district judge to hear and determine the application.

(2) The district court shall not lose jurisdiction of the case by failure to hear and determine the application within the prescribed time, but shall retain jurisdiction until the cause is finally determined and the final count is made by the board of county canvassers.

Limited recount.

Section 195. (1) If the application asks for a recount in more than one (1) precinct, but there are not sufficient grounds for a recount in all precincts, the court shall order a recount only in the precincts for which sufficient grounds are stated and shown.

Expense of recount.

Section 196. (1) The court in its order shall determine the probable expense of making the recount and the applicant or applicants asking for the recount shall deposit with the board the amount determined in cash.

(2) If the recount shows that the applicant or applicants have been elected to the office, the deposit of each applicant shall be returned to him.

(3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost, the applicant shall pay the excess, but if the expense is less than the cost the difference shall be refunded to the applicant.

(4) Members of the canvassing board and their clerks shall be compensated for their time spent in canvassing.

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Multiple applications for recount.

Section 197. If more than one (1) candidate makes application for a recount, the court may consider the applications together. The court may make separate or joint orders on the applications and apportion the expenses between the applicants.

Method of recounting.

Section 198. The board of canvassers in recounting the ballots shall count the votes cast, at the same time, in the precincts in which a recount is ordered for the several candidates in whose behalf a recount is ordered in the following manner:

(1) The registrar shall produce, unopened, unless it is necessary for the registrar to open the package or envelope to secure election materials which have been sealed in the wrong envelope or package, the sealed package or envelope received from the election judges of the precinct, or precincts, in which a recount is ordered containing all ballots voted in the precinct or precincts;

(2) A member of the board of county canvassers shall open the sealed package or envelope in the presence of the other members, the registrar, and the applicant or applicants seeking the recount;

(3) A member of the board shall then remove the ballots from the package or envelope in the presence of the applicant or applicants seeking the recount and the candidate or candidates who received the highest number of votes by the first canvass;

(4) One (1) of the members of the board, in the presence and view of the candidates and one (1) other board member, shall read each ballot aloud. As the ballots are read, two (2) clerks shall write the votes cast for each person in each precinct at full length, on previously prepared tally sheets showing the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct;

(5) At the completion of the recount, the tally sheets shall be compared, their correctness ascertained, and the total number of votes cast for each candidate determined;

(6) If the recount shows the votes for any applicant are more or less than the number shown upon the official returns, the clerk of the board of canvassers shall correct the original returns to state the number of votes ascertained by the recount;

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(7) The board of canvassers shall direct the clerk to enter the result of the election as determined by the recount on the board records and the clerk shall make out and deliver a certificate of election which conforms to the result of the recount.

Service of person originally elected.

Section 199. The candidate found to be elected as a result of the original or first canvass shall be served with a copy of the application for recount. He shall be given an opportunity to be heard and shall be permitted to be present and to be represented at any recount ordered.

Ballots after recount.

Section 200. When the recount in a precinct has been finished, the ballots shall again be sealed in the same package or envelope in the presence of the registrar and the members of the board of canvassers and shall be delivered to the registrar for custody.

Second certificate.

Section 201. If the recount shows that the person who received the certificate of election according to Section 184 of this act did not receive the highest number of votes, the registrar shall issue a new certificate to the person receiving the highest number pursuant to the recount and the first certificate is void. The person receiving the second certificate shall be elected to the office.

Total vote cast.

Section 202. When an elector may vote for two (2) or more candidates for the same office, the total vote cast for all candidates for the office is the total vote cast for all candidates divided by the number of candidates officially declared nominated or elected as shown by the official returns.

County recount board.

Section 203. (1) The county recount board shall always consist of three (3) acting members.

(2) The county recount board is the board of county commissioners.

(3) If one (1) or more of the commissioners cannot attend when the board meets, his place shall be filled by a county officer in the following order of appointment: the treasurer, the assessor, the sheriff, the clerk of court.

(4) If a member of the recount board was a candidate for an office or nomination for which votes are to be recounted, he shall be disqualified.

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(5) The registrar is clerk of the recount board, and the board may hire additional clerks as needed.

Application for recount.

Section 204. (1) Immediately upon receiving an application for a recount or notice from the secretary of state that an application has been filed with him, the registrar shall notify the members of the county recount board.

(2) The board shall convene at the usual meeting place of the commissioners without undue delay but not later than five (5) days after receiving notice from the registrar.

Representation at recount.

Section 205. (1) Each candidate involved in a recount may appear, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots.

(2) If the recount is upon a referred or submitted question, one (1) qualified elector favoring each side of the question may be present and represent his side.

(3) The registrar shall produce, unopened, the sealed package or envelope received from the election judges in each election precinct in the county.

(4) The recount shall proceed as provided in section 198 of this act and as expeditiously as possible until completed.

Certification of recount.

Section 206. (1) Immediately after the recount the county recount board shall certify the result.

(2) At least two (2) members of the board shall sign the certificate and it shall be attested to under seal by the registrar.

(3) The certificate shall set forth in substance the proceedings of the board and appearance of any candidates or representatives, and it shall adequately designate each precinct recounted, the vote of each precinct according to the official canvass previously made, nomination, position, or question involved, and the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for an office, nomination, position, or question voted upon in more than one (1) county or for judge of the district

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court, the certificate shall be made in duplicate. One (1) copy shall be transmitted immediately to the secretary of state by registered mail.

(5) If the recount relates to an office, nomination, position, or question voted upon in only one (1) county, or part of a single county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes.

(a) If the corrected abstract shows no change in the result, no further action shall be taken.

(b) If there is a change in the result, a new certificate of election or nomination shall be issued to each candidate found to be elected or nominated.

Filing certificates.

Section 207. (1) When the secretary of state receives certificates from all county recount boards, he shall file them, and fix a time and place as soon as possible for reconvening the state board of canvassers, and shall notify the members.

(2) The state board of canvassers shall recanvass the official returns on the office, nomination, position or question, as corrected by the certificates and make a new and corrected abstract of the votes cast.

(a) If the corrected abstract shows no change in the results, no further action shall be taken.

(b) If there is a change in the results, a new certificate of election or nomination shall be issued in the same manner as the certificate of election or nomination was previously issued to each candidate elected or nominated.

Tie vote—procedure.

Section 208. If the recount shows a tie vote and it cannot bedetermined who has been nominated or elected, the office or position shall be filled as provided by Sections 209 and 210 of this act.

Same—U. S. representative—judges—legislative assembly.

Section 209. (1) If there is a tie vote for United States representative, the secretary of state shall send a certified statement to the governor showing the votes cast and the governor shall order a special election.

(2) If there is a tie vote for justice of the supreme court, judge of a district court, or member of the legisla-

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tive assembly the secretary of state shall send a certified statement to the governor showing the vote cast for each person, and the governor shall appoint an eligible person to hold office.

Same—state offices.

Section 210. (1) If there is a tie vote for governor, lieutenant governor, secretary of state, attorney general, state aduitor, state treasurer, clerk of the supreme court, superintendent of public instruction, or any other state, executive officer, the legislative assembly, at its next regular session, shall elect a person to fill the office by joint ballot of the two (2) houses.

Same—county offices.

(2) If there is a tie vote for clerk of the district court, county attorney, any county officer except county commissioner, or for a township officer, the commissioners shall appoint an eligible person as in case of other vacancies in the office.

(3) If there is a tie vote for commissioner, the senior district judge shall appoint an eligible person to fill the office as in other cases of vacancy.

(4) If there is a tie vote for state officers, the secretary of state shall transmit a certified copy of the statement to the legislative assembly showing the votes cast for the two (2) or more persons having an equal and the highest number of votes.

Expense of recount.

Section 211. The expense of the recount is a county charge. Expenses of the secretary of state and state board of canvassers are a state charge.

Contest of bond election.

Section 212. (1) Any elector qualified to vote in a bond election of a county, city, or of any political subdivision of either may contest a bond election, for any of the following causes:

(a) that the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election;

(b) that any official charged with a duty under this act, failed to perform that duty;

(c) that in conducting the election, any official charged with a duty under this act, violated any of the provisions of this act relating to bond elections.

(2) Within five (5) days after the election, the con-

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testant shall file a verified petition with the clerk of the court in the judicial district where the election was held.

Petition—hearing.

Section 213. (1) Within five (5) days after the petition is filed, the district judge shall designate the time and place of hearing.

(2) The clerk shall immediately issue a citation for the defendant to appear at the time and place specified in the order, and shall serve the citation immediately upon the defendant either:

(a) personally, or

(b) if the party cannot be found, by leaving a copy at the house where he last resided.

(3) The court shall meet at the time and place designated to determine the contested election and shall have all the powers necessary to the determination thereof.

(4) The court shall be governed by the rules of law and evidence governing the determination of questions of law and fact, so far as the same may be applicable.

(5) The court shall continue in special session to hear and determine all issues in the contested election. After hearing the proofs and allegations of the parties and within ten (10) days after submission thereof, the court shall file its findings of fact and conclusions of law, and immediately shall pronounce judgment in the premises, either confirming or annulling and setting aside the election. The judgment shall be entered immediately thereafter.

Electors for U. S. president and vice-president.

Section 214. On the Tuesday next after the first Monday of November in the year in which a president of the United States is to be elected there shall be elected as many electors for president and vice president of the United States as are allocated to this state.

Procedure.

Section 215. (1) Each political party shall nominate presidential electors for this state and file with the secretary of state certificates of nomination for these candidates at the time and in the manner and number provided by law.

(2) The secretary of state shall certify to the registrars the names of the candidates for president and vice-

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president of the several political parties, which shall be printed on the ballot.

(3) The names of candidates for electors of president and vice-president shall not be printed upon the ballot.

(4) The votes cast for candidates for president and vice-president of each political party shall be counted for the candidates for presidential electors of the political party whose names have been filed with the secretary of state.

Counting votes.

Section 216. (1) The votes for candidates for president and vice-president shall be given, received, returned and canvassed as the votes are given, returned, and canvassed for candidates for congress.

(2) The secretary of state shall prepare three (3) lists of names of electors elected and affix the seal of the state to the lists.

(3) The lists shall be signed by the governor and secretary of state and by the latter delivered to the college of electors at the hour of their meeting.

Meeting of electors.

Section 217. (1) The electors shall meet in Helena at 2 p.m. on the first Monday after the second Wednesday in December following their election.

(2) The electors shall vote by separate ballots for one (1) person for president and one (1) for vice-president of the United States.

Results.

Section 218. (1) The electors shall make lists of the persons voted for as president and vice-president, indicate the number of votes for each, certify, seal, and transmit the lists as prescribed by laws of the United States.

Compensation.

Section 219. Elector shall receive the same pay and mileage allowed members of the legislative assembly. Payments shall be certified by the secretary of state and paid by the state auditor from the state general fund.

Vacancy.

Section 220. If a vacancy occurs, the electors present shall elect a citizen of the state to fill the vacancy.

U. S. senators and representatives.

Section 221. (1) United States senators and representatives shall be elected at the general election preceding commencement of the term to be filled.

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(2) If a vacancy occurs for senator, or United States representative, an election to fill the vacancy shall be held at the next general election. If an election is invalid or not held at that time, the election shall be at the second succeeding general election.

(3) Nominations and elections shall be as provided by law for governor.

Vacancy.

Section 222. If a vacancy occurs in the office of United States senator or representative, the governor shall issue a writ of election to fill the vacancy. The governor may make a temporary appointment to fill the vacancy until the election.

Certificate of election.

Section 223. Upon receipt of the statement required by Section 186 of this act, the governor shall send a certificate of election to each person elected.

Eligibility for office—U. S. senator and representative.

Section 224. A person who has not resided in this state at least one (1) year prior to his election or appointment is not eligible for the office of United States senator or representative.

Judicial offices—vacancy.

Section 225. (1) Each vacancy for associate justice of the supreme court is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to the four (4) associate justices and certify these numbers to the office of the secretary of state not less than one hundred eighty (180) days before a primary nominating election.

(2) Each judicial office in a district which has more than one (1) district judge is a separate and independent office for election purposes.

Same—nomination.

Section 226. Candidates for the supreme court or district court shall be nominated according to primary election laws so far as they are consistent with the provisions of this chapter.

Same—declarations for nomination.

Section 227. (1) Judicial candidates shall file declarations for nomination as required by the primary election laws in a form specified by the secretary of state.

(2) Declarations for nomination as associate justice of the supreme court shall designate the number of the office. A person can make only one (1) designation.

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(3) Candidates for nomination as district judge in a district having more than one (1) judge shall specify the number of the office. His candidacy is limited to the number specified.

(4) Declarations shall not indicate political affiliation. The candidate shall not state in his declaration any principles or measures he advocates nor any slogans.

(5) Each person filing a declaration shall remit the fee prescribed by law for the position he seeks. Declarations for justice of the supreme court and district court judge shall be filed with the secretary of state.

Same—entries.

Section 228. (1) On receipt of a declaration, the secretary of state shall make entries in the "Register of Candidates for Nomination" on a page different from entries made for district candidates of political parties.

(2) The secretary of state shall separately arrange, certify, and file the names of judicial candidates, and certify to each registrar the names to be placed on the primary ballot at the same time, and in the same way, that other candidates are certified.

(3) The certificates shall show the names of candidates and number of the judicial office for each. The list shall be separate from lists of candidates appearing under political headings.

Same—ballots.

Section 229. (1) The registrars shall arrange, prepare, and distribute primary ballots for judicial offices designated "Judicial Primary Ballots." They shall be arranged as other primary ballots and be without political designation.

(2) The number of judicial primary ballots and sample ballots furnished shall be the same as other primary ballots.

Judicial primary ballot.

Section 230. (1) The "Judicial Primary Ballot" shall be furnished to electors in the same manner as other primary ballots.

(2) The number of the judicial primary ballot shall correspond to the number of the elector's regular ballot.

(3) Different terms of office for the same position shall be considered separate offices.

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Same—counting votes.

Section 231. (1) After closing the polls, the election officers shall separately count and canvass judicial ballots, and record and certify them, showing the number of votes cast for each person.

(2) Judicial ballots, stubs, and unused ballots shall be disposed of in the same manner as other ballots, stubs and unused ballots. Returns shall be made as provided by law.

Same—primary candidates.

Section 232. (1) Candidates for nomination equal to twice the number to be elected at the general election who shall receive the highest number of votes cast at the primary, or if the number of candidates is not more than twice the number to be elected then all candidates, are nominees for the office.

(2) Candidates who received the highest vote in the primary shall have their names printed on the official ballot for the general election.

(3) No candidate shall have his name on the judicial ballot for the general election unless he was a successful candidate at the primary election.

Same—tie vote.

Section 233. (1) In case of a tie vote, the candidates shall appear and cast lots before the secretary of state on the fifth day after the vote is officially canvassed.

(2) If a candidate fails to appear in person or by proxy in writing before 12 noon of the day appointed, the secretary of state shall by lot determine the candidate whose name will be printed on the official ballot.

Same—vacancy.

Section 234. (1) If after the primary a candidate is not able to run for the office for any reason, the vacancy shall be filled by the candidate next in rank in number of votes received in the primary election.

(2) If after the primary and before the general election there is no person able or entitled to the office or there are not enough candidates to fill the offices, the governor shall certify to the secretary of state the names of persons qualified for the office equal to twice the number to be elected. The names of those persons nominated by the governor shall be printed on the official ballot.

(3) Nominations made by the governor are not filed

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too late if filed within ten (10) days after the vacancy occurs. If the ballots have already been printed, stickers may be used to place the names on the ballot.

Same—violation and penalty.

Section 235. A political party which endorses a candidate for justice of the supreme court or district court judge, a person who participates in an endorsement by a political party, or a person who acts on behalf of a political party in endorsing a judicial candidate is guilty of a misdemeanor.

State convention for amendment of U. S. constitution.

Section 236. If Congress proposes an amendment to the constitution of the United States to be ratified by state convention, a convention shall be held.

Section 237. (1) The number of convention delegates shall be equal to the number of members in the legislative assembly. Each district shall have delegates equal to the number of members it is entitled to in the legislative assembly.

(2) Delegates shall be elected at the next primary or general election after Congress has proposed the amendment, or at a special election called by the governor.

(3) Except as otherwise provided in Sections 236 through 246 of this act, the election shall be in accordance with the laws for the election of members of the legislative assembly.

Nomination for delegate.

Section 238. (1) Nominations for the office of delegate shall be by petition signed by not less than one hundred (100) voters of the district.

(2) Nominations shall be without political designation but shall be as "in favor of" or "opposed to" ratification of the proposed amendment.

(3) Petitions and acceptances shall be filed not less than thirty (30) days prior to the election.

Results—determination.

Section 239. The results of the election are determined as follows:

(1) The votes cast for each candidate "in favor of" ratification, and the total votes cast for all candidates "in favor of" ratification and the votes cast for each candidate "opposed to" and the total votes cast for all candidates "opposed to" ratification shall be ascertained;

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(2) Candidates receiving the highest number of votes equal to the number of delegates to be elected from the side receiving the greater number of votes are elected.

Ballot form.

Section 240. The official ballot form shall be prescribed by the secretary of state.

Meeting of delegates.

Section 241. Delegates shall meet at the state capitol on the first Monday in the month following the election at 10 a.m. and constitute a convention to act upon the proposed amendment.

Quorum.

Section 242. A majority of the total number of delegates constitutes a quorum. The convention may choose a president, secretary, and other necessary officers; make rules governing the procedure of the convention; and shall judge the qualifications and election of its members.

Compensation.

Section 243. Each delegate shall receive mileage and per diem as provided by law for members of the legislative assembly. The secretary and other officers shall receive compensation fixed by the convention.

Certification of results.

Section 244. When the convention has agreed by majority vote of delegates attending the convention, a certificate of the result shall be executed by the president and secretary and transmitted to the secretary of state of the United States.

Qualification of nominees.

Section 245. Persons entitled to petition for nomination and vote at the election are determined by laws on registration.

Regulation of convention by Congress.

Section 246. If Congress prescribes how the convention shall be constituted and held by resolution or statute, sections 236 through 245 of this act are inoperative and the convention shall be constituted and held as Congress directs. All state officers are directed to take action to constitute the convention as authorized by Congress and act as if acting under state statute.

Violation—penalty.

Section 247. Anyone who violates any provision of this act for which no other penalty is specified is guilty of a misdemeanor.

Repealing clause.

Section 248. Sections 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601

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through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, and 23-2501 through 23-2507, R.C.M. 1947 are repealed.

Approved: March 15, 1969.

CHAPTER NO. 369

An Act Providing for the Amount of the Distributor's Gasoline License Tax; Payment of the Tax by Distributors; Establishing a Refund Procedure; Licensing of Gasoline Distributors; Empowering the State Board of Equalization to Establish Regulations; Providing for Enforcement of the Act by Penalties; and Repealing Sections 84-1801 through 84-1814, 84-1818 through 84-1823, 84-1828, and 84-1829, R.C.M. 1947, Relating to the Gasoline Dealer's License Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Citation of act.

Section 1. This act may be cited as the "Distributor's Gasoline License Tax Act."

Section 2. **Definitions.** As used in this act, the following definitions shall apply:

"Gasoline."

(1) The term "gasoline" includes all products commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline, aviation gasoline and all flammable liquids, composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. The term "gas-

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oline" does not include special fuels as defined in section 84-1831(e).

(2) The word "person" means any person, firm, association, joint-stock company, syndicate or corporation. "Person."

(3) The words "motor vehicle" mean all vehicles operated or propelled upon the public highways or streets of this state, in whole or in part by the combustion of gasoline. "Motor vehicle."

(4) The word "use" shall include and mean the operation of motor vehicles upon the public roads or highways of the state of Montana, or of any political subdivision thereof. "Use."

(5) The word "import" shall include and mean to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of Montana of any gasoline shipped or transported into this state from point of origin without this state, other than in the fuel supply tank of a motor vehicle. "Import."

(6) Gasoline deemed to be "distributed". (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat, or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat, or gasoline imported in to this state and placed in storage at refineries or pipeline terminals, shall be deemed to be distributed, for the purpose of this Act, at the time the gasoline is withdrawn from such tanks, refinery or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license. "Distributed"—gasoline.

(b) Gasoline imported into this state other than that gasoline placed in storage at refineries or pipeline terminals, shall be deemed to be distributed after it has arrived in and is brought to rest in this state.

(7) The word "distributor" means (a) any person who engages in the business in this state of producing, "Distributor."

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refining, manufacturing or compounding gasoline for sale, use or distribution,

(b) any person who imports gasoline for sale, use or distribution; and no refund shall be allowed of that portion of the tax per gallon upon aviation gasoline allocated to the state aeronautics commission by section 1-501.

(c) any dealer licensed as of January 1, 1969, except a dealer at an established airport.

"Aviation gasoline."

(8) The words "aviation gasoline" mean gasoline or any other liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

Gasoline license tax—amount.

Section 3. **Gasoline license tax—amount.** Every distributor shall pay to the state board of equalization a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to six and one-half cents ($.06½) for each gallon of all gasoline distributed by him within the state and upon which the gasoline license tax has not been paid by any other distributor. Gasoline exported or sold for export out of the state of Montana shall not be included in the measure of the distributor's license tax.

Aviation gasoline—exemption certificates.

Section 4. Any dealer at an established airport, who purchases aviation gasoline for resale directly to consumers using such gasoline in aircraft or any consumer who purchases such gasoline in lots of not less than fifty (50) gallons for use in aircraft and not for resale and who purchases from a distributor or dealer other than at an established airport, may apply to the state board of equalization for a permit to issue aviation gasoline tax exemption certificates. The application for a permit, the permit itself, and any exemption certificates issued pursuant thereto shall all be in such form and shall contain such information as the board may from time to time require. The board may require the payment of a fee of not to exceed five dollars ($5) for each permit issued and may provide that said permits shall be valid for a period not exceeding five (5) years. No permit shall be transferable. The permit shall be

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subject to revocation at any time by the board for any violation of law relating thereto or any false statement made by the holder in connection therewith.

So long as his permit remains unrevoked, the holder thereof shall have the privilege to purchase aviation gasoline from any distributor or dealer without the payment of any part of the license tax, imposed by this section, except the part allocated to the state aeronautics commission upon surrendering to the seller an aviation gasoline tax exemption certificate certifying, if the holder is a dealer at an established airport, that the gasoline purchased will be resold only to consumers for use directly in aircraft, and if the holder is a consumer purchasing from a distributor or dealer other than at an established airport and the purchase is fifty (50) gallons or more, that the gasoline is purchased for use directly in aircraft and not for resale; and any distributor or dealer who sells aviation gasoline either directly to the holder of such a permit and who receives a valid certificate directly from the permit holder covering that sale, or who sells to another distributor or dealer who surrenders valid certificates held by him covering prior sales, shall be under no liability or obligation to collect or pay the tax, on the number of gallons covered by such certificates, except the portion thereof allocated to the state aeronautics commission; but notwithstanding any other provision to the contrary, no tax exemption certificate shall be valid for any purpose nor entitle any distributor to the deduction authorized in section 5 of this act unless submitted to the board prior to the end of the second calendar month immediately succeeding the month in which the sale was made with respect to which such certificate issued.

Distributor's statements—payment of tax.

Section 5. **Distributors' statements—payment of the tax.** Each distributor shall, not later than the twenty-fifth day of each calendar month render a true statement to the state board of equalization, duly signed, of all gasoline distributed and received by him in this state during the preceding calendar month, and containing such other information as the state board of equalization may reasonably require in order to administer the gasoline license tax law. The statement shall be accompanied by a payment in an amount equal to the tax imposed

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by section 3 of this act, less any refund credit issued under section 11 of this act, and less two percent (2%) of the first six cents ($.06) tax which shall be deducted by the distributor as an allowance for evaporation and other loss of gasoline distributed by such distributor. In addition a distributor may deduct for each gallon of aviation gasoline sold by him and for which he submits a valid gasoline tax exemption certificate, an amount equal to the tax per gallon except the portion thereof allocated to the state aeronautics commission by section 1-501.

Any distributor engaged in or carrying on his business at more than one (1) place or location in this state may include all such places of business in one (1) statement.

Examination of records.

Section 6. **Examination of records.** The board, or its authorized representative is hereby empowered to examine the books, papers, records and equipment of any gasoline distributor or any person dealing in, transporting, or storing gasoline as defined in this act and to investigate the character of the disposition which any person makes of such gasoline in order to ascertain and determine whether all excise taxes due hereunder are being properly reported and paid. If such books, papers, records and equipment are not maintained in this state at the time of demand they shall be furnished to the board for review or such dealer shall bear the reasonable cost of examination by an agent authorized or designated by the board at the place where such books or records are kept, provided the taxpayer shall not be liable for such costs for a period exceeding one (1) week or for such longer period as he may consent to in writing, unless the result of such examination is the payment of a tax deficiency.

Records to be kept by distributor.

Section 7. **Records to be kept by distributor.** Each distributor shall keep for a period not to exceed three (3) years such records, receipts and invoices and any other pertinent papers and information as the state board of equalization may require.

Inspection of records.

Section 8. **Inspection of records.** The records, receipts and invoices and any other pertinent papers supporting sales of every distributor or any person dealing in, transporting or storing gasoline shall be open and subject

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to inspection by the state board of equalization or any of its employees or assistants during business hours in order to ascertain the amount of license tax due.

Invoice of distributors.

Section 9. **Invoice of distributors.** Each distributor in this state shall at the time of delivery, except where authorized by the board, issue to the purchaser an invoice in which shall be stated the number of gallons of gasoline covered by such invoice and such other information as the state board of equalization may require.

Information reports.

Section 10. **Information reports.** Any person receiving gasoline, including every common carrier, private carrier and contract carrier of property who shall haul, receive, transport, or ship any gasoline, from any other state or foreign country into this state or from this state to any other state or foreign country or from any refinery or pipeline terminal in this state to another point within this state, shall submit to the board of equalization upon its request and within the time specified a statement showing the number of gallons of gasoline contained in each shipment in interstate commerce and the movement of such products from any refinery or pipeline terminal located within this state to another point within this state during the preceding calendar month, the names and addresses of the consignor and the consignee and the date of delivery to the consignee.

In case of any person, except licensed distributors, who refuses or fails to file a statement as herein provided for, there is hereby imposed a penalty of twenty-five dollars ($25) for each failure or refusal, provided, however, that if any person shall establish to the satisfaction of the board that his failure to file a statement as prescribed by the board was due to reasonable cause, the board shall waive the penalty.

Refund of license tax—procedure.

Section 11. **Refund of gasoline license tax—procedure.** (1) Any person who shall purchase and use any gasoline, on which the Montana gasoline license tax has been paid, for operating or propelling stationary gasoline engines, tractors used off the public highways and streets, motor boats, airplanes or aircraft, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, shall be allowed a refund of the amount of

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tax paid directly or indirectly on the gasoline so used. Provided, that such refund or drawback should in no instance exceed the tax paid or to be paid, to the state of Montana; and no refund shall be allowed on any sale with respect to which an aviation gasoline tax exemption certificates has been issued.

Any distributor paying the gasoline license tax to this state erroneously shall be allowed a credit or refund of the amount of tax so paid.

The application for refund shall be a signed statement on forms furnished by the board, accompanied by the invoice or invoices issued to the claimant, showing the total amount of the gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the board. Each separate delivery shall constitute a purchase. If any invoice is either lost or destroyed, the purchaser may support his claim for refund by submitting an affidavit relating the circumstances of such loss or destruction and by producing such other evidence as may be required by the board.

(2) All applications for refunds shall be filed with the board of equalization within thirteen (13) months after the date on which the gasoline was purchased as shown by invoices or after the date on which the tax was erroneously paid. Provided, however, that a distributor may file a claim for refund of taxes erroneously paid within three (3) years after the date of such erroneous payment. The board shall have one hundred twenty (120) days after receiving the claim to approve or reject it. If approved, the board shall issue a credit in lieu of refund for the amount of the claim, if the claimant is a distributor. For all other persons, a warrant shall be drawn upon the state treasurer for the amount of the claim.

(3 Should the board of equalization find that the statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as corrected, or the board may require the claimant to file an amended statement. If the state board of equalization determines that any claim has been fraudulently presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the claim

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or affidavit is willfully false and made for the purpose of misleading, the board may reject such claim in full. If a claim is rejected, the board may suspend claimant's right to refund for a period not to exceed one (1) year.

(4) Any person, other than a licensed distributor, desiring to claim refund on gasoline purchased shall obtain a permit from the state board of equalization. The application for permit shall contain the applicant's name, address, occupation, nature of business, identification of machinery and equipment in which the taxable motor fuel is to be used, and any other information which may be required by the board.

(5) Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. The state board of equalization shall keep a record of all permits issued and a cumulative record of refunds claimed and paid thereunder.

A fee of one dollar ($1) shall be collected from each person to whom a refund permit is issued. No refund shall be paid to any person unless said person has first secured a refund permit and paid said fee. The refund permit must be renewed and the license fee paid every five (5) years from the date of issuance.

(6) Any person, other than a licensed distributor, shall obtain a permit from the state board of equalization prior to selling gasoline on which a refund may be claimed. The application for permit shall contain the applicant's name, address, place or places of business in the state of Montana, and other information which may be required by the board. Permits issued shall bear a permit number and the date of issuance. The board shall keep a record of all permits issued, cancelled, or suspended. Permits shall be issued for the calendar year upon payment of a fee of one dollar ($1) and must be renewed annually before the first day of January.

Any person failing to comply with this subsection shall be subject to a fine of not less than twenty-five dollars ($25) or more than two hundred dollars ($200) or imprisonment in the county jail for a period not less than ten (10) days or more than sixty (60) days, or both fine and imprisonment.

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Filing and payment.

Section 12. **Timely mailing treated as timely filing and paying.** Any claim, statement, remittance, or other document which is transmitted to this state through the United States mail, shall be deemed filed and received by this state on the date shown by the post-office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. Any claim, statement, remittance, or other document which is mailed but not received by this state or where received with a cancellation mark that is illegible, erroneous, or omitted, shall be deemed filed and received on the date mailed if the sender establishes by competent evidence that the claim, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing. In cases of such nonreceipt of a claim, statement, remittance, or other document, the sender must file with the state a duplicate within thirty (30) days after written notification is given to the sender by the state of its nonreceipt of such claim, statement, remittance, or other document.

If any claim, statement, remittance, or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States post office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed to the addressee, and the date of registration, certification or certificate shall be deemed the postmarked date.

If the date for filing any claim, statement, remittance, or other document falls upon a Saturday, Sunday or legal holiday, the filing shall be considered timely if done on the next business day.

License and bond of distributors.

Section 13. **License and bond of gasoline distributors.** All gasoline distributors prior to the commencement of doing business shall file an application for a license with the state board of equalization on forms prescribed and furnished by the board setting forth the information as may be requested by the board. Each distributor shall at the same time file a corporate surety bond or such collateral security or indemnity as may be deemed sufficient by the state board of equalization, but in no case more than twice the estimated amount of gasoline taxes

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the distributor will pay to this state each month. Upon approval of the application, the state board of equalization shall issue to the distributor a nonassignable license which shall continue in force until surrendered or canceled.

Penalties—delinquent payment—failure to file statement or pay tax—tax lien.

Section 14. **Penalties — delinquent payment — procedure in case of failure to file statement or pay tax — lien for tax.** Any license tax not paid within the time provided shall be delinquent and a penalty of ten percent (10%) shall be added to the tax and the tax shall bear interest at the rate of one percent (1%) per month from the date of delinquency until paid. Upon a showing of good cause by the distributor, the board may waive penalty.

If any distributor or other person subject to the payment of such license tax shall willfully fail, neglect, or refuse to make any statement required by this act, or shall willfully fail to make payment of such license tax within the time provided, the state board of equalization shall be authorized to revoke any license issued under this act. In addition, the board shall inform itself regarding the matters required to be in such statement and determine the amount of the license tax due the state from such distributor, and shall add thereto a penalty of twenty-five dollars ($25) or ten percent (10%) thereof, whichever is greater, together with interest at the rate of one percent (1%) per month from the date such statements should have been made and said license tax paid. The state treasurer shall proceed to collect such license tax with penalties and interest. Upon the request of the state treasurer, the attorney general shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect such license tax. All license taxes, penalties and interest due from any distributor under the provisions of this act, shall be a lien upon any and all property of such distributor or other person upon the filing by the state board of equalization of a copy of its statement, or a certified copy of any statement filed with the board, in the office of the county clerk of the county where the distributor's property is situated. The lien shall have precedence over any other claim, lien or demand filed or recorded thereafter. The lien may be enforced in the name of this

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state in the same manner as judgment liens are enforced. No action shall be maintained to enjoin the collection of all or any part of the license tax. When the amount due is paid in full before the entry of foreclosure decree, the state treasurer shall release the lien by filing in the office of the county clerk where the lien was filed, a written release. At any time prior to the payment of said taxes, penalty and interest, before the entry of foreclosure decree, the state treasurer may release from the operation of the lien a part of the distributor's property to enable the distributor to mortgage, sell or otherwise dispose of it in order to procure funds to pay taxes, penalty and interest, provided there remains, in the judgment of the state treasurer, sufficient property subject to the lien to insure the payment of all the unpaid taxes, penalty and interest.

Penalties.

Section 15. **Penalties.** Any distributor or other person, who fails, neglects, or refuses to make and file the statements required by this act in the manner or within the time provided, or who shall be delinquent in the payment of any license tax imposed by this act, or who shall make any false statement with reference to his business, or who shall make any false statement on any claim for refund or who violates any provision of the act, shall, in addition to any other penalties imposed, be deemed guilty of a misdemeanor and upon conviction shall be fined in any amount not exceeding one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed six (6) months, or shall be punished by the imposition of both such fine and imprisonment.

Statute of limitations.

Section 16. **Statute of limitations.** Except in the case of a fraudulent return or of neglect, or refusal to make a return, every deficiency shall be assessed within three (3) years from the due date of the return or the date of filing the return, whichever period expires later.

Rules and regulations.

Section 17. **Rules and regulations to be established by state board.** The state board of equalization shall have the power, and it shall be its duty to adopt, publish and enforce the rules and regulations consistent with and necessary for carrying out the provisions of this act.

Severability clause.

Section 18. **Severability.** If any section, subsection, sentence or clause in the act shall, for any reason, be held

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unconstitutional or void, such decision shall not affect the validity or meaning of any other portion of this act.

Repealing clause.

Section 19. All acts and parts of acts in conflict herewith are hereby repealed.

Same.

Section 20. Sections 84-1801, 84-1801.1, 84-1802, 84-1802.1, 84-1803, 84-1803.1, 84-1804, 84-1805, 84-1805.1, 84-1806, 84-1807, 84-1808, 84-1809, 84-1810, 84-1811, 84-1813, 84-1814, 84-1818, 84-1818.1, 84-1819, 84-1820, 84-1821, 84-1822, 84-1823, 84-1828, and 84-1829, R.C.M. 1947, are repealed.

Approved: March 17, 1969.

CHAPTER NO. 370

An Act to Provide a Privilege Tax Upon Possession and Use of Tax-Exempt Property; Providing Exceptions Thereto; Fixing the Rate of Such Tax and Credit Against Tax; Providing for Assessment, Collection and Distribution of Said Taxes; Providing Penalties for Failure to Pay the Tax and Preserving Constitutional Exemption, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Privilege tax upon possession and use of tax-exempt property—exceptions.

Section 1. **Privilege tax upon possession and use of tax-exempt property—exceptions.** From and after the effective date of this act there is imposed and there shall be collected a tax upon the possession or other beneficial use enjoyed by any private individual, association, or corporation of any property, real or personal, which for any reason is exempt from taxation. No tax shall be imposed upon the possession or other beneficial use of public lands occupied under the terms of mineral, timber or grazing leases or permits issued by the United States or the state of Montana or upon any easement unless the lease, permit or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit or easement relates.

Rate of tax—credit.

Section 2. **Rate of tax same as ad valorem property tax—credit against tax on use of federally owned property.** The tax imposed upon such possession or other bene-

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ficial use of tax-exempt property shall be in the same amount and to the same extent as the ad valorem property tax would be if the possessor or user were the owner thereof; provided that there shall be credited against the tax so imposed upon the beneficial use of property owned by the federal government the amount of payments which are made in lieu of taxes.

Assessment—collection and distribution—taxes not to be a lien.

Section 3. **Assessment—collection and distribution—taxes shall not become a lien against property.** The tax imposed hereunder shall be assessed to such possessors or users of the tax-exempt property upon the same forms, and shall be collected and distributed at the same time and in the same manner as taxes assessed to owners, possessors, or other claimants of property which is subject to ad valorem taxatioin, except that such taxes shall not become a lien against the property, and no such tax-exempt property may be attached, encumbered, sold or otherwise affected for the collection of the tax imposed hereunder.

Failure to pay tax—remedies of county.

Section 4. **Failure to pay tax—remedies of county.** A tax due and unpaid under this act shall constitute a debt due the county for and on behalf of the various taxing units concerned in the tax. If the tax imposed by this act or any portion thereof is not paid at the time the same becomes delinquent the county auditor may issue a warrant in the name of the county directed to the clerk of the district court in his county and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent taxpayer mentioned in the warrant and, in the appropriate columns, the amount of tax, penalties, interest and other costs for which the warrant is issued and the date when such warrant is filed, and thereupon the warrant so docketed shall have the force and effect of a judgment duly rendered by a district court and docketed in the office of the clerk thereof, and the county shall have the same remedies against the possessor user as any other judgment docket.

Exemptions.

Section 5. **Exemptions granted in the constitution of the state of Montana.** Nothing contained herein shall be construed as limiting or repealing the exemptions granted in article XII, section 2 of the constitution of the state of Montana.

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Section 6. This act shall be in full force and effect from and after its passage. Effective immediately.

Approved: March 17, 1969.

CHAPTER NO. 371

An Act to Appropriate Thirty-Five Thousand Dollars ($35,000) for Repair of the Governors' Old Mansion and to Lease Said Mansion to the City of Helena.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the office of the state controller from the federal and private revenue fund capitol building account to be used to repair the governors' old mansion thirty-five thousand dollars ($35,000). The state controller is hereby authorized to complete the needed repairs without delay. Appropriation for repair of governors' old mansion—lease to city of Helena.

Section 2. The state board of examiners is requested and authorized to negotiate and enter into a lease arrangement with the city of Helena for the property known as the governors' old mansion; such lease agreement to provide that restoration procedures from time to time by the lessee be encouraged and permitted by the board of examiners and further provide that maintenance and repair of the property under the lease be the responsibility of the lessee.

Approved March 17, 1969.

CHAPTER NO. 372

An Act Appropriating $2,600,000 From the Earmarked Revenue Fund to Montana State University for the Construction of Physical Education, Athletic, and Recreation Facilities; Providing That All Gifts, Grants, Fees, and Earnings Available for This Facility Shall Be Deposited in the Earmarked Revenue Fund Including a Special Student Fee of Not More Than $6.50 Per Academic Quarter; and Providing That the Construction Shall Begin Only Upon Approval of the Board of Edu-

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cation Ex Officio Regents of the Montana University System and the Affirmative Vote of a Majority of the Student Body Voting Upon the Issue.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation—purpose.

Section 1. Two million six hundred thousand dollars ($2,600,000) is appropriated from the earmarked revenue fund to Montana state university for construction of physical education, athletic, and recreation facilities. These moneys shall be expended only as provided in this act.

Student fee assessments.

Section 2. All gifts, grants, fees, and earnings which are pledged for expenditure for these facilities shall be deposited to the account of Montana state university in the earmarked revenue fund. Student fee assessments for these facilities shall not exceed six dollars and fifty cents ($6.50) per academic quarter.

Construction authorized—when.

Section 3. These facilities shall be authorized for construction only upon approval of the state board of education ex officio regents of the Montana university system after affirmative vote of a majority of the student body at Montana state university voting upon the issue.

Approved: March 17, 1969.

CHAPTER NO. 373

An Act Appropriating Monies to State Agencies for Capital Projects for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation—purpose.

Section 1. The following monies are appropriated for the biennium ending June 30, 1971, for the purchase of land, the repair, remodeling, renovation, construction and furnishing of buildings and other improvements to land:

FISH AND GAME COMMISSION

(1) From the earmarked revenue fund, fish and game commission account, for:

Security Fencing Projects	$ 24,400
Hangar Renovation	5,500
Pave Parking	2,800

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District Headquarters Remodeling	7,000
Stream and Lake Improvement	30,000
Residence at Great Falls	24,500
Residence at Bluewater	24,500
Fish Passage Facilities at Hungry Horse Reservoir	1,000
Tile Springs at Big Timber	7,500
Erosion Control—Bluewater	10,000
Hatchery Water Line Tank	11,000
Structures for Dewatering Study	875
Fence—Anaconda Hatchery	3,500
Park Lake Improvements	20,000
Fire Equipment Building—Anaconda Hatchery	2,000
Land Acquisition and Development	125,000
Blackfoot Game Range Dwelling	6,000
Warm Springs Ponds, Phase 11	6,250
Fox Lake & Milk River Dike Work	1,000
New Water Supply—Judith Game Range	875
Fence & Dwelling Improvements—Bitterroot Game Range	1,875
Public Use Facility—Freezout	3,750
Public Use Facility—Sun River	1,100
Miscellaneous Water Base Parks (Parks Account No. 220500)	70,000
Office and Drafting Shop	39,000
Acquisition and Development	183,500
Cooney Reservoir (Parks Account No. 220500)	50,000
Elmo State Park (Parks Account No. 220500)	53,750

(2) From the federal and private revenue fund, fish and game account, for:

Structures for Dewatering Study	2,625
Land Acquisition and Development	375,000
Blackfoot Game Range Dwelling	18,000
Warm Springs Ponds, Phase 11	18,750
Fox Lake & Milk River Dike Work	3,000
New Water Supply—Judith Game Range	2,625
Fence & Dwelling Improvements—Bitterroot Game Range	5,625
Public Use Facility—Freezout	11,250
Public Use Facility—Sun River	3,300

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Miscellaneous Water Base Parks (Parks Account No. 418600)	70,000
Acquisition and Development	183,500
Cooney Reservoir (Parks Account No. 418600)	50,000
Elmo State Park (Parks Account No. 418600)	53,750
All monies from this appropriation not required for Cooney Reservoir and Elmo State Park will be available for miscellaneous water based parks. Fish Hatchery — Libby Dam area	750,000
(This is money from the Corps of Engineers to allow payment for construction and operation. This payment is in mitigation for fish losses occasioned by the construction of Libby Dam.)	

HIGHWAY COMMISSION

(1) Land acquisition costs and architect's fees	420,000
Equipment storage buildings, sanding materials storage buildings, weigh stations, sign shop and storage additions	679,824

Section 2. The balance of any appropriation unexpended at the end of the biennium which is not encumbered by purchase order or obligated by other written contract shall revert to the fund from which it was appropriated.

Federal and state money.

Section 3. The expenditure of all federal and private monies available for the above named capital projects may be made upon the approval of the governor of a request submitted to him by the state controller.

Transfer of excess funds.

Section 4. Monies appropriated for one (1) agency project may be used on other projects under the following conditions: (1) Upon award of construction contract for any project named above with the concurrence of the state controller, may request transfer of excess funds appropriated for that project to increase the appropriation of another project within the agency.

Additional funds.

Section 5. In addition to the amounts specifically appropriated by this act, all federal monies and other income

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to which the state fish and game commission is entitled may be made available by approved budget amendment.

Approved: March 17, 1969.

CHAPTER NO. 374

An Act Appropriating Moneys to the State Controller for State Agencies and Institutions for Capital and Repair Projects for the Biennium Ending June 30, 1971; Authorizing the Sale of Fourteen Million Dollars ($14,000,000) of Building Bonds by the Montana State Board of Examiners; Authorizing the Transfer of the Bond Sale Proceeds to the "Long-Range Building Program Account, Bond Proceeds and Insurance Clearance Fund" and Authorizing the Transfer of $1,525,000 in Federal Funds to the "Long-Range Building Program Account, Bond Proceeds and Insurance Clearance Fund," and Appropriating $1,500,000 for the Purchase of the Highway Commission Land and Building, Capital Complex.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following moneys are appropriated for the projects and from the account indicated for the biennium ending June 30, 1971:

Appropriation—projects—account.

	Long-Range Building Program Account Bond Proceeds and Insurance Clearance Fund	Construction Grant Account Federal and Private Revenue Fund
OFFICE OF ADJUTANT GENERAL		
Helena National Guard Armory	$ 110,110	$ 330,192
Shop Addition	20,000	212,000
FISH AND GAME COMMISSION		
Interstate Lake Construction	100,000	100,000

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Chief Joseph Battlefield	20,000	20,000
Makoshika State Park	30,900	30,900
Indian Caves State Park	12,500	12,500
Beavertail Hill	36,600	36,600
Wayfarer Park	158,800	
(Reimbursement from the Bureau of Outdoor Recreation for the construction of Wayfarer Park in the amount of $79,400 shall be deposited to the "long-range building program account, bond proceeds and insurance clearance fund").		

OFFICE OF STATE FORESTER

Helena District Fire Complex	11,500
Anaconda Fire Headquarters Station	25,825
Water Field Distribution, Nursery Complex	25,000

MONTANA HIGHWAY PATROL

Division Headquarters, Butte	92,000

SCHOOL FOR THE DEAF AND BLIND

New Academic Facility Phase 1	1,254,000
land acquisition and site development	200,000

UNIVERSITY OF MONTANA

New Library Phase 1	2,465,000	1,135,000
Renovation Projects to include renovating old student union building	550,000	

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MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY

Pre-planning and miscellaneous campus projects	50,000	
Remodel Metallurgy Building	72,000	
Fire Control and Campus Improvements	128,000	

MONTANA STATE UNIVERSITY—BOZEMAN

Life Science Complex	3,750,000	
Nursing Building	125,000	250,000
Utility Improvement Extension and Miscellaneous Projects and renovations	200,000	
Life Science Complex federal funds Any federal moneys that may be received either preceding, during or subsequent to the construction of the life science complex building shall be deposited to the "long-range building program account, bond proceeds, and insurance clearance fund."		

NORTHERN MONTANA COLLLEGE

Replace boilers and modify heating control in Cowan Hall	96,000
Miscellaneous renovation and improvements	184,000

EASTERN MONTANA COLLEGE

Land acquisition	200,000
Renovation projects and pre-planning	250,000

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Education Building	
Phase 1 federal funds	1,400,000
Any federal moneys that may be received either preceding, during, or subsequent to the construction of the education building, phase 1, shall be deposited to the "long-range building program account, bond proceeds and insurance clearance fund."	

WESTERN MONTANA COLLEGE

Renovation and miscellaneous projects	150,000

DEPARTMENT OF INSTITUTIONS
CHILDREN'S CENTER

Bathroom and other miscellaneous projects	20,000

WARM SPRINGS STATE HOSPITAL

New Security Building	700,000
Fire Escapes	45,000
Campus Fire Alarm System	40,250
Enclose internal stairwells	16,650
Elevator	40,000

BOULDER RIVER SCHOOL & HOSPITAL

Campus Fire Alarm and Detection System and blacktopping	70,000
Addition to Dining Room	80,750

CENTER FOR AGED

Blacktopping & Paving, Storage Building for Auxiliary Power	

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Plant and roof repair to kitchen	7,000	
GALEN		
Renovation projects	124,300	
Renovation for Alcoholic Unit	10,000	
STATE PRISON		
Library Renovation	6,500	
PINE HILLS SCHOOL		
Carbon Hills Watershed Project	95,000	
Vo Tech Building	296,000	
MOUNTAIN VIEW SCHOOL		
New Academic Facility	300,000	
Addition to Intensive Treatment Unit	85,000	
VETERANS' HOME		
Sewage Disposal	55,000	
Nursing Home	158,000	158,000
YELLOWSTONE RIVER RETARDATION UNIT		
Furnishings and Equipment	37,000	
DEPARTMENT OF ADMINISTRATION		
Purchase of highway commission land and building, capital complex	1,500,000	

Federal and private money.

Section 2. In addition to the amounts specifically appropriated by this act, the expenditure of all federal and private moneys available for the above named capital projects may be made upon the approval of the governor of a request submitted to him by the state controller.

Transfer of excess funds.

Section 3. Moneys appropriated for one (1) project may be used on other projects under the following conditions: (1) Upon award of construction contract for

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any project named above in the university system, the board of regents, with the concurrence of the state controller, may request transfer of excess funds appropriated for that project to increase the appropriation of another project within the university system.

(2) Upon award of construction contract for any project named above under the control of the board of institutions, the board of institutions, with the concurrence of the state controller, may request transfer of excess funds appropriated for that project to increase the appropriation of another project under their supervision.

Limitation on construction awards.

Section 4. No awards for construction shall total more than fifty percent (50%) of the total authorized in any six (6) month period during the 1969-71 biennium.

Authorization for construction.

Section 5. Authorization is hereby made and consent granted for the construction of the following project for the biennium ending June 30, 1971, provided that no appropriated state moneys may be used in financing the construction thereof;

Eastern Montana College
Physical Education Building Addition $800,000

Approved: March 17, 1969.

CHAPTER NO. 375

An Act Authorizing the State Board of Examiners to Borrow Up to Two Million Dollars ($2,000,000) for Land Acquisition for Public Buildings at the State Capitol; for the Reconstruction, Improvement, Remodeling, Repair and Furnishing of the State Capitol Building of the State of Montana at Helena, Montana; for Construction of a Supreme Court and Law Library Building; Providing for the Issuance of Bonds, Indentures and/or Notes; Dedicating Income from Capitol Building Land Grant for Repayment of Loans; Enumerating the Power and Duties of the State Board of Examiners in Carrying Out the Provisions of This Act; and Providing for a Select Committee of the House of Representatives and Senate Relating Thereto.

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Be it enacted by the Legislative Assembly of the State of Montana:

Land acquisition for public buildings at state capitol.

Section 1. In order to provide for land acquisition for public buildings at the state capitol; the reconstruction, improvement, remodeling, repair and furnishing of the state capitol building of the state of Montana at Helena, Montana; for the construction of a supreme court building and state library building, the state board of examiners of the state of Montana is authorized to borrow sums of money from time to time from the unpledged investment funds available to any state agency or division of government, and to issue bonds, indentures or notes therefor.

Employment of architects and engineers.

Section 2. With the approval of the state board of examiners, the state controller is hereby authorized, directed and empowered to employ an architect or architects, an engineer or engineers for such period of time as he may deem proper for the purpose of making the necessary studies and preparing complete plans and specifications for the purposes set forth in section 1 of this act; to proceed with the reconstruction, improvement, remodeling, repair and furnishing of the state capitol building and to proceed with the construction of the supreme court and law library building. The plans and specifications of said architect or architects, engineer or engineers shall be approved by a select committee comprised of four (4) members of the house of representatives, not more than two (2) from either political party, appointed by the speaker; and four (4) members of the senate, not more than two (2) from either political party, appointed by the committee on committees.

Approval of plans —select committee.

Acquisition of land.

Section 3. The board of examiners and the state controller shall purchase or condemn the lands described in section 1 of this act upon the advice of the select committee. The state board of examiners shall call for bids for the construction of the supreme court building and the state library building, and for the reconstruction, improvement, remodeling, repair, and furnishing of the state capitol building and shall let contracts for the same, all in accordance with the laws of the state of Montana. Said board shall require the contractors to give bonds to the state of Montana in such amounts as the board may determine, conditioned for the faithful performance of their duties and contracts.

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Amount which can be borrowed.

Section 4. The aggregate amount which the state board of examiners is authorized to borrow under this act for the purposes herein expressed shall not be in excess of the sum of two million dollars ($2,000,000). All monies borrowed or realized from the sale of bonds authorized by this act shall be deposited in the capitol building program account, bond proceeds and insurance clearance fund.

Interest rate of bonds.

Section 5. The bonds, indentures and/or notes issued by the state board of examiners under authority of this act shall not bear interest at a rate in excess of four and one-half percent (4½%) per annum payable semi-annually. They shall bear such date as the state board of examiners shall prescribe, and shall be payable over such period of years, not exceeding twenty-five (25), as said board may specify. All bonds, indentures and/or notes shall be optional and redeemable at any time after the date of issue, at the option of the state board of examiners. Said bonds, indentures and/or notes shall be in such denominations and sums and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, and the secretary of state as members of said board, and shall be paid at the office of the state treasurer of the state of Montana. Coupons attached to any such bonds may bear the facsimile signature of the members of said board.

Sale of bonds.

Section 6. Said bonds, indentures and/or notes shall be sold by the state board of examiners at such time and in such manner as the board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds. Each of said bonds, indentures and/or notes shall be registered before delivery with the state treasurer of the state of Montana, who shall keep accurate accounts of payments of interest and principal upon said bonds, indentures and/or notes.

Funds available to pay bonds.

Section 7. The principal and interest of the bonds, indentures and/or notes authorized by this act shall be payable out of the following fund and from it only: As much as may be necessary from the income received subsequent to January 1, 1970, from the capitol building land

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grant shall be, and the same is hereby dedicated and appropriated for the repayment of the principal and interest of the bonds, indentures and/or notes provided for by this act.

Funding.

Section 8. To provide for the payment of the interest and principal of the bonds, indentures and/or notes authorized by this act, all the sums of money hereinbefore dedicated and appropriated to the payment of the principal and interest of said bonds, indentures and/or notes shall be paid and deposited in the sinking fund in the state treasury.

Exempt from budget act.

Section 9. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Severability clause.

Section 10. Every section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

Approved: March 17, 1969.

CHAPTER NO. 376

An Act to Create a Legislative Fiscal Review Committee for the Study of State Government Fiscal Matters; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Legislative fiscal review committee.

Section 1. There is hereby created a legislative fiscal review committee which shall consist of four (4) members of the house of representatives appointed by the speaker, no more than two (2) of whom shall be of the same political party; and four (4) members of the senate appointed by the committee on committees, no more than two (2) of whom shall be of the same political party. The first members of the legislative fiscal review committee shall be appointed not later than the sixtieth (60th) legislative day of the forty-first (41st) legislative session. New members of the committee shall be appointed not later than the sixtieth (60th) legislative day of each suc-

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ceeding session. Any vacancy occurring when the legislative assembly is not in session shall be filled by the selection of another member of the legislature by the remaining members of the committee.

Duties.

Section 2. The legislative fiscal review committee shall accumulate, compile, analyze, and furnish such information bearing upon the financial matters of the state as the legislative assembly, or the committee by its own initiative, shall determine relevant to issues of policy and questions of state-wide importance, including, but not limited to, investigation and study of the possibilities of effecting economy and efficiency in state government. The committee may also conduct studies inquiring into the financial administration of state government and any of its agencies, including problems of assessment and collection of taxes, and all other matters pertaining to the fiscal functions of all agencies and branches of state government.

Powers.

Section 3. The legislative fiscal review committee may:

(1) employ the services of any research agency deemed necessary to the discharge of the committee's duties;

(2) appoint special subcommittees composed of legislators, private citizens, or both to study and inquire into any specific governmental problems, however, the work of subcommittees shall be performed under the supervision of the committee;

(3) estimate revenue from existing and proposed taxes;

(4) review the executive budget and budget requests of each state agency and institution including proposals for the construction of capital improvements;

(5) make recommendations it deems desirable to the legislative assembly;

(6) assist committees of the legislative assembly, and individual legislators, in compiling and analyzing financial information.

Authority.

Section 4. The legislative fiscal review committee has authority to investigate and examine into the costs of state government activities and may examine all records, books, and files of any department, agency, commission, board, or institution of the state of Montana.

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Hearings—authority.

Section 5. In the discharge of its duties, the legislative fiscal review committee shall have authority to hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses, and the production of any papers, books, accounts, documents and testimony, and to cause depositions of witnesses to be taken in the manner prescribed by law in civil actions in the district court. In case of disobedience on the part of any person to comply with a subpoena issued on behalf of the committee, or of the refusal of any witness to testify on any matter regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county or the judge thereof, on application of the legislative fiscal review committee, to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court on a refusal to testify therein.

Compensation.

Section 6. Members of the legislative fiscal review committee and its subcommittees shall be reimbursed for actual travel and other expenses incurred in the discharge of their duties, and may also receive per diem payments as authorized by law.

Organization.

Section 7. The legislative fiscal review committee shall organize within thirty (30) days after the passage and approval of this act by electing one (1) of its members as chairman and by the election of other officers from the membership of the committee as it may deem desirable. The committee is empowered to adopt rules of procedure and to make all arrangements for its meetings to carry out the purposes for which it is created. The committee shall keep an accurate record of its activities and proceedings.

Specialists.

Section 8. A fiscal analyst and other necessary staff shall be assigned to the committee by the legislative council. The council shall fix the salaries and define the duties of all the staff personnel.

Effective immediately.

Section 9. This act is effective upon its passage and approval.

Approved: March 19, 1969.

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CHAPTER NO. 377

An Act to Provide for the Issue and Sale by the State Board of Examiners of Bonds in a Sum Not Exceeding $4,675,077 for the Purpose of Acquiring a Necessary Site for and Erecting and Equipping a State Highway Commission Headquarters Building and Complex; Providing That Said Bonds Shall Be Payable Solely From Net Proceeds From Gasoline Taxation; Pledging and Appropriating a Portion of Such Net Proceeds to a Special Sinking Fund Account; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Issuance and sale of bonds by state board of examiners.

Section 1. The state board of examiners of the state of Montana is hereby authorized to issue and sell bonds for the purpose of acquiring a suitable site for, and erecting, and equipping, a state highway commission headquarters building and complex at or near Helena, Montana, to replace the present shops, storage and administration buildings which are hereby declared to be inadequate for such purpose. All bonds issued hereunder shall contain a statement that they are not and shall never become a debt or liability of the state of Montana within the meaning of any constitutional or statutory limitation or provision, and that no ad valorem tax may be levied upon property within the state of Montana to pay principal thereof or interest thereon, but that the bonds and interest are payable solely from that portion of the net proceeds from the taxation of gasoline pledged and appropriated to the sinking fund account as provided in this act, and shall contain the pledge of the state of Montana to continue to apply such net proceeds to the retirement of said bonds and the payment of interest thereon.

State highway commission building.

Section 2. Upon the sale of the bonds, the state controller, acting under the supervision and with the approval of the board of examiners, as provided in chapter 33 of title 82 of the Revised Codes of Montana 1947, is hereby empowered and directed to acquire a site for and to proceed with the erection and equipping of a building of suitable construction and design for use as a headquarters building and necessary supporting structures for shops and storage for the state highway commission of Montana.

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Bonding amount authorized.

Section 3. The aggregate amount of bonds authorized by this act for the purpose herein expressed, shall not exceed the sum of four million six hundred seventy-five thousand seventy-seven dollars ($4,675,077).

Bonds—form and denomination.

Section 4. Such bonds shall be issued by the board, upon request of the controller, in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest at such rate or rates not exceeding five and one-half per centum (5½%) per annum, maturing at such times not exceeding twenty (20) years from date of issue, subject to redemption at such earlier times and prices and upon such notice, and payable at the office of such fiscal agent of the state of Montana, as the board shall determine, subject to the limitations contained herein.

Same—fiscal agent.

Section 5. In all other respects, the board is authorized to prescribe the form and terms of the bonds, and shall do whatever is lawful and necessary for their issuance and payment. The board is hereby authorized to employ a fiscal agent to assist it in the performance of its duties hereunder. Such bonds and any interest coupons appurtenant thereto shall be signed by the members of the state board of examiners, and the bonds shall be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

Proceeds—disposition.

Section 6. All proceeds of bonds issued hereunder shall be deposited in a separate subfund which is created within the bond and insurance clearance fund established by section 79-410, R.C.M. 1947, and shall be segregated by the treasurer from all other money in that or any other fund in the state treasury and used only to pay costs of acquiring land for and erecting and equipping the buildings herein referred to, upon order of the controller acting within the limits of the authority conferred upon him by the legislative assembly and said proceeds are hereby appropriated for the purposes of the capital items herein described.

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Sinking fund account.

Section 7. (a) The state hereby pledges and appropriates and directs to be credited as received to the sinking fund account, as herein defined, that portion of the net proceeds from the collection of gasoline taxes as may from time to time be needed to comply with the principal and interest and reserve requirements stated in subsection (b) of this section. The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received as net proceeds from the collection of gasoline taxation. The term "sinking fund account", as used herein, means a separate subfund which is created within the sinking fund established by section 79-410, R.C.M. 1947, and shall be segregated by the treasurer from all other money in that or any other fund in the treasury and used only to pay such bonds and interest thereon when due, so long as any such bonds or interest remain unpaid.

(b) Money in the sinking fund account shall be used first, to pay interest and principal when due on the bonds issued pursuant to this act; second, to accumulate a reserve in the amount required below, for the further security of such payments; and third, to maintain this reserve in an amount at least equal, after each interest and principal payment, to one and one-half times the maximum amount of interest and principal which will become due on all such bonds which are then outstanding in any subsequent fiscal year.

(c) Money at any time received in the sinking fund account in excess of the principal, interest and reserve requirements stated in subsection (b) shall be transferred by the treasurer to the earmarked revenue fund—highway account. If the balance at any time on hand in the sinking fund account is not sufficient for compliance with subsection (b), the treasurer shall credit to said account an amount sufficient to restore said balance from the next receipts of net proceeds from the collection of gasoline taxes.

Effective immediately.

Section 8. This act shall be in force and effect from and after its passage and approval.

Approved: March 19, 1969.

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CHAPTER NO. 378

An Act Appropriating Forty-Five Thousand Dollars ($45,000) From the Agricultural Experiment Account 2115 in the Earmarked Revenue Fund to the Board of Examinineers for the Biennium Ending June 30, 1971, for the Acquisition of Real Property; Appropriating as Much as May Be Necessary From the Agricultural Experiment Station Account 2115 in the Earmarked Revenue Fund to the Board of Examiners for Interest and Other Costs to the Purchaser for the Acquisition of Real Property; Authorizing the Board of Examiners to Enter into Contracts for Deed to Approximately 93.69 Acres of Land in Gallatin County and Approximately 150 Acres of Land in Flathead County.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation—purpose.

Section 1. Forty-five thousand dollars ($45,000) is appropriated from the agricultural experiment station account 2115 in the earmarked revenue fund to the board of examiners for the biennium ending June 30, 1971, for the acquisition of real property as provided in this act.

Acquisition of real property.

Section 2. In addition to the amount appropriated by section 1 of this act, as much as may be necessary for the payment of interest and other costs to the purcaser for the acquisition of real property as provided in this act is appropriated from the agricultural experiment station account 2115 in the earmarked revenue fund to the board of examiners for the biennium ending June 30, 1971.

Same—description—cost.

Section 3. The board of examiners is authorized to enter into a contract for deed to property in Gallatin County comprised of approximately 93.69 acres presently leased by Montana state university from Peter M. and Mabel B. Hansen under a lease agreement entered into March 1, 1968. The total purchase price of this property shall not exceed forty-eight thousand three hundred dollars ($48,300) and the contract may specify that a principal payment of not more than fourteen thousand seven hundred dollars ($14,700) shall be due on July 1, 1969, and a principal payment of not more than seventeen thousand one hundred forty-seven dollars ($17,147) shall be due on July 1, 1970. Interest due on the principal and other

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costs to the purchaser shall be paid from the amount appropriated by section 2 of this act.

Same—description—cost.

Section 4. The board of examiners is authorized to enter into a contract for deed to property in Flathead county comprised of approximately 150 acres including 78 acres now leased by Montana state university from Milo C. and Edith Z. Roberts and 72 acres adjoining the leased land owned by Milo C. and Edith Z. Roberts. The total purchase price shall not exceed sixty-eight thousand dollars ($68,000), and the contract may provide for ten (10) annual principal payments of equal amounts. Interest due on the unpaid principal and other costs to the purchaser shall be paid from the amount appropriated by section 2 of this act.

Effective immediately.

Section 5. Sections 3 and 4 of this act are effective upon passage and approval.

Approved: March 19, 1969.

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APPROPRIATIONS AND RESOLUTIONS

ENACTED BY THE

Forty-first Legislative Assembly

STATE OF MONTANA

1969

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APPROPRIATIONS AND RESOLUTIONS

HOUSE BILL NO. 1

An Act Appropriating Money for the Operation of the Forty-first Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Seven hundred fifty thousand dollars ($750,000) is appropriated from the general fund for the operation of the forty-first legislative assembly.

Section 2. This act is effective on passage and approval.

Approved: January 10, 1969.

HOUSE BILL NO. 4

An Act Appropriating Five Thousand Dollars ($5,000) to the Legislative Council to Reimburse Members of the Legislative Assembly for Expenses in Attending a Meeting of the Western Conference of the Council of State Governments to be Held in Glacier Park in 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the legislative council from the general fund to reimburse members of the legislative assembly for expenses in attending a meeting of the western conference of the council of state governments to be held in Glacier Park in 1969, five thousand dollars ($5,000).

Section 2. Each legislator attending the meeting of the western conference of the council of state governments shall be reimbursed for the registration fee and an amount, not to exceed twenty-five dollars ($25), as reimbursement for other expenses.

Approved: February 3, 1969.

HOUSE BILL NO. 5

An Act Appropriating Sixteen Thousand Six Hundred Fifty Dollars ($16,650) for State of Montana Dues to the Council of State Governments for the 1969-1971 Biennium.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the legislative council from the general fund for the payment of state of Montana dues to the council of state governments for the biennium ending June 30, 1971, sixteen thousand six hundred fifty dollars ($16,650).

Approved: January 24, 1969.

HOUSE BILL NO. 33

An Act Appropriating Moneys for the Operation of the Legislative Council for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts are appropriated from the general fund to the legislative council for the biennium ending June 30, 1971:

Legislative research, one hundred twenty thousand dollars $120,000

Legislative services, thirty thousand dollars ..... $ 30,000

Approved: March 17, 1969.

HOUSE BILL NO. 48

An Act Appropriating Moneys for the Biennium Ending June 30, 1969 to the Department of Administration to Complete the Addition to the Veterans' Pioneer Memorial Building.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Seventy-five thousand seven hundred eighty-five dollars ($75,785) is appropriated from the long range building program account in the bond proceeds and insurance clearance fund to the department of administration for the biennium ending June 30, 1969 for the completion of the addition to the veterans' pioneer memorial building.

Section 2. This act is effective upon its passage and approval.

Approved: January 24, 1969.

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HOUSE BILL NO. 81

An Act to Appropriate $2,500 From the General Fund to the State Fish and Game Commission for the Biennium Ending June 30, 1971 for the Purpose of Developing a Comprehensive Statewide Plan for the Preservation of Historic Sites.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund the sum of twenty-five hundred dollars ($2,500) to the state fish and game commission for the biennium ending June 30, 1971 for the purpose of developing a comprehensive statewide plan for the preservation of historic sites.

Approved: February 27, 1969.

HOUSE BILL NO. 112

An Act Appropriating Moneys for the Operation of the Legislative Audit Committee for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated four hundred three thousand six hundred thirty-eight dollars ($403,638) from the geneeral fund to the legislative audit committee for the biennium ending June 30, 1971.

Approved: February 24, 1969.

HOUSE BILL NO. 319

An Act Appropriating Twenty-four Thousand Dollars ($24,000) From the General Fund to the State Board of Equalization for the Fiscal Period Ending June 30, 1969, for Operation and Capital Expenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Twenty-four thousand dollars ($24,000) is appropriated from the general fund to the state board of equalization for the fiscal period ending June 30, 1969, for operation and capital expenses.

Section 2. This act is effective on its passage and approval.

Approved: February 24, 1969.

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HOUSE BILL NO. 369

An Act Appropriating Moneys for the Biennium Ending June 30, 1969, to the Department of Administration to Complete the New Facility at the Montana Veterans' Home.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Twenty-seven thousand nine hundred seventy dollars ($27,970) is appropriated from the long-range building program account in the bond proceeds and insurance clearance fund to the department of administration for the biennium ending June 30, 1969, for the completion of the new facility at the Montana veterans' home.

Section 2. This act is effective upon its passage and approval.

Approved: March 14, 1969.

HOUSE BILL NO. 544

An Act to Appropriate Five Hundred Thirteen Dollars Seventy-four Cents ($513.74) From the General Fund as an Unsettled Claim to Reimburse the Boulder River School and Hospital for a Loss Incurred by Theft; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund five hundred thirteen dollars seventy-four cents ($513.74) to reimburse the Boulder River School and Hospital for a loss by theft.

Section 2. This act is effective on passage and approval.

Approved: February 13, 1969.

HOUSE BILL NO. 582

An Act Appropriating Six Thousand Dollars ($6,000) From the Highway Account in the Earmarked Revenue Fund to the Highway Commission to Reimburse Members of the Legislative Interim Committee on Highways for Expenses Incurred in a Study of the Highway Commission During the 1967-1968 Interim.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Six thousand dollars ($6,000) is appropriated from the highway account in the earmarked revenue fund to the highway commission to reimburse members of the legislative interim committee on highways, created by extraordinary house bill No. 14 of the 1967 legislative session, for expenses incurred in a study of the highway commission during the 1967-1968 interim. Members of the legislative interim committee shall submit claims for expenses to be paid by the highway commission.

Section 2. This act is effective upon its passage and approval.

Approved: February 24, 1969.

HOUSE BILL NO. 583

An Act to Appropriate all Monies Remaining in the University 1949 Building Bond Sinking Account and all Monies to be Deposited in That Account in the Sinking Fund, After all Outstanding Bonds Have Been Redeemed and all Expenses of Liquidating the Bonds Have Been Paid, From That Account in the Sinking Fund to the School Equalization Aid Account in the Earmarked Revenue Fund; Amending Section 6, Chapter 249, Laws of 1947, to Authorize the Appropriation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. After all outstanding university 1949 building bonds have been redeemed and all expenses incurred in liquidating the bonds have been paid, all monies remaining in the university 1949 building bond sinking account or monies to be deposited in that account in the sinking fund are appropriated from that account in the sinking fund to the school equalization aid account in the earmarked revenue fund.

Section 2. Section 6, chapter 249, laws of 1947, is amended to read as follows:

"Section 6. There shall be levied annually upon all property of the State of Montana subject to taxation ad valorem tax upon each dollar of the taxable valuation of such property sufficient to pay the interest accruing on said bonds as such interest shall fall due, and the payment of the bonds as they serially become due, said levy, however, not to exceed two and one-half (2½) mills per annum, until the indebtedness herein provided for shall have been fully paid and discharged. The tax when collected by

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the county treasurers of the several counties of the state shall be by them accounted to and paid into the state treasury of the State of Montana, and by the state treasurer placed in the 'university of Montana building bond interest and redemption fund' which fund shall be used exclusively for the payment of principal and interest on said bonds as the same become due, *except that any amount remaining after all bonds have been redeemed and all costs of liquidating the bonds have been paid shall be placed in the school equalization aid account in the earmarked revenue fund.*"

Approved: February 27, 1969.

HOUSE BILL NO. 590

An Act to Appropriate Money for the Licensing and Examining Boards and Commissions of the State Government for the Biennium Ending June 30, 1971, and Providing Other Matters Properly Relating Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all expenditures for personal services, all ordinary and necessary expenditures for the operation of the agency to which the appropriation applies, and repairs and maintenance.

(2) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to plumbing, heating, wiring, and air-conditioned systems in buildings occasioned by ordinary wear and tear or by technical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(3) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital items, as well as new acquisitions.

(4) The term "approved budget amendment" means a request approved by the governor submitted to him through the budget director.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for

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the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

Section 3. The following moneys are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ABSTRACTERS BOARD OF EXAMINERS		
(1) From the earmarked revenue fund, abstracters' board account, for:		
(a) operation and capital	$ 486	$ 486
BOARD OF ARCHITECTURAL EXAMINERS		
(1) From the earmarked revenue fund, architectural examiners' account, for:		
(a) operation and capital	6,104	5,963
ATHLETIC COMMISSION		
(1) From the earmarked revenue fund, veterans' memorial account, for:		
(a) operation and capital	980	980
BOARD OF BARBER EXAMINERS		
(1) From the earmarked revenue fund, barber examiners' account, for:		
(a) operation and capital	8,479	8,483
BOARD OF CHIROPRACTIC EXAMINERS		
(1) From the earmarked revenue fund, chiropractic examiners' account, for:		
(a) operation and capital	3,935	4,000

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EXAMINING BOARD OF COSMETOLOGY

(1) From the earmarked revenue fund, cosmetology board account, for:

(a) operation and capital 30,315 31,461

BOARD OF DENTAL EXAMINERS

(1) From the earmarked revenue fund, dental examiners' account, for:

(a) operation and capital 5,802 5,096

ELECTRICAL BOARD

(1) From the earmarked revenue fund, electrical board account, for:

(a) operation and capital 95,752 97,102

BOARD OF FOOD DISTRIBUTORS

(1) From the earmarked revenue fund, food distributors' account, for:

(a) operation and capital 27,000 27,000

HORSE RACING COMMISSION

(1) From the earmarked revenue fund, horse racing commission account, for:

(a) operation and capital 25,200 24,900

BOARD OF MASSAGE EXAMINERS

(1) From the earmarked revenue fund, massage examiners' account, for:

(a) operation and capital 3,000 3,065

BOARD OF MEDICAL EXAMINERS

(1) From the earmarked revenue fund, medical board account, for:

(a) operation and capital 18,717 18,887

BOARD OF MORTICIANS

(1) From the earmarked revenue fund, morticians' board account, for:

(a) operation and capital 4,747 4,770

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BOARD OF NURSING		
(1) From the earmarked revenue fund, board of nursing account, for:		
(a) operation and capital	54,229	57,119
BOARD OF EXAMINERS IN OPTOMETRY		
(1) From the earmarked revenue fund, optometry examiners' account, for:		
(a) operation and capital	3,895	3,920
BOARD OF OSTEOPATHIC EXAMINERS		
(1) From the earmarked revenue fund, osteopathic examiners' account, for:		
(a) operation and capital	300	300
BOARD OF PHARMACY		
(1) From the earmarked revenue fund, pharmacy board account, for:		
(a) operation and capital	17,284	17,733
BOARD OF PLUMBING EXAMINERS		
(1) From the earmarked revenue fund, plumbing examiners' account, for:		
(a) operation and capital	33,400	35,000
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS		
(1) From the earmarked revenue fund, professional engineers' account, for:		
(a) operation and capital	16,093	15,931
REAL ESTATE COMMISSION		
(1) From the earmarked revenue fund, real estate account, for:		
(a) operation and capital	47,900	49,400
SANITARIANS' REGISTRATION COUNCIL		
(1) From the earmarked revenue fund, sanitarians' registration account, for:		
(a) operation and capital	200	200

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BOARD OF VETERINARY MEDICAL EXAMINERS		
(1) From the earmarked revenue fund, veterinary medical examiners' account, for:		
(a) operation and capital	1,575	1,575
BOARD OF CERTIFICATION FOR WATER AND WASTE WATER OPERATORS		
(1) From the earmarked revenue fund, water and waste water operators certification examining board account, for:		
(a) operation and capital	6,269	6,864
WATER WELL CONTRACTORS' EXAMINING BOARD		
(1) From the earmarked revenue fund, water well contractors' account, for:		
(a) operation and capital	5,109	5,212

Section 4. Additional moneys in these accounts may be made available by approved budget amendment.

Section 5. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: February 27, 1969.

HOUSE BILL NO. 596

An Act to Appropriate Monies to Certain State Institutions for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the institution to which the approp-

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riation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health insurance. Employee's annual salary increases for the fiscal year ending June 30, 1970, shall not exceed 5 percent of the annual salary received during the fiscal year ending June 30, 1969, unless promoted to a position with additional responsibility, duties, or both, but in no case shall employees' salary be less than $312 per month. Employees' annual salary increases for the fiscal year ending June 30, 1971, shall not exceed 5 percent of the annual salary received during the fiscal year ending June 30, 1970, unless promoted to a position with additional responsibility, duties, or both.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life or more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically auhorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensaton, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unex-

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pended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall not be used for salary increases but shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

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(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. Transfers of appropriated funds between programs of an institution may be made only by an approved budget amendment.

Section 9. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
DEPARTMENT OF INSTITUTIONS		
(1) From the General Fund for:		
Administration		
(a) Personal Services	$ 87,748	$ 91,354
(b) Operation and Capital	51,600	42,968
Reimbursement		
(a) Personal Services	52,454	55,107
(b) Operation and Capital	24,348	21,392
Aftercare		
(a) Personal Services	93,070	97,848
(b) Operation and Capital	93,807	90,102
(c) Operation of Group Home	44,500	32,500
Board		
(a) Operation	6,033	6,070
(2) The head of this agency shall not receive a salary in excess of $21,000 for the fiscal year ending June 30, 1970; and $22,000 for the fiscal year ending June 30, 1971.		
BOULDER RIVER SCHOOL AND HOSPITAL		
(1) From the General Fund for:		

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Administration		
(a) Personal Services	124,604	130,692
(b) Operation and Capital	27,658	29,757
Care and Custody		
(a) Personal Services	2,061,135	2,165,594
(b) Operation and Capital	322,514	322,539
General Services and Physical Plant		
(a) Personal Services	184,140	201,086
(b) Operation and Capital	194,625	199,625
Education and Rehabilitation		
(a) Personal Services	84,444	87,343
(b) Operation and Capital	11,325	9,348
Farm or Ranch		
(a) Personal Services	62,311	65,546
(b) Operation and Capital	44,600	44,100
(2) From the Federal and Private Revenue Fund for:		
Hospital Improvement		
(a) Personal Services	103,000	62,939
Foster Grandparents		
(a) Personal Services	4,404	—0—
(b) Operation and Capital	748	—0—
(3) The head of this agency shall not receive a salary in excess of $15,000 for the fiscal year ending June 30, 1970; and $15,500 for the fiscal year ending June 30, 1971.		
CENTER FOR THE AGED		
(1) From the General Fund for:		
Administration		
(a) Personal Services	41,794	43,949
(b) Operation and Capital	4,280	3,700

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Care and Custody

(a) Personal Services	114,378	120,108
(b) Operation and Capital	68,800	70,875

General Services and Physical Plant

(a) Personal Services	20,483	28,244
(b) Operation and Capital	18,300	15,200

(2) The head of this agency shall not receive a salary in excess of $12,000 for the fiscal year ending June 30, 1970; and $12,500 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.

CHILDREN'S CENTER

(1) From the General Fund for:

Administration

(a) Personal Services	32,522	34,200
(b) Operation and Capital	8,460	7,720

Care and Custody

(a) Personal Services	344,431	359,412
(b) Operation and Capital	122,735	122,835

General Services and Physical Plant

(a) Personal Services	68,604	72,166
(b) Operation and Capital	43,620	44,220

Education and Rehabilitation

(a) Personal Services	48,881	60,747
(b) Operation and Capital	10,564	7,909

(2) From the Federal and Private Revenue Fund for:

Education and Rehabilitation

(a) Personal Services	16,584	16,584
(b) Operation and Capital	2,916	2,916

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(3) The head of this agency shall not receive a salary in excess of $12,000 for the fiscal year ending June 30, 1970; and $12,500 for the fiscal year ending June 30, 1971.

EASTERN MONTANA TRAINING CENTER

(1) From the General Fund for:

Administration		
(a) Personal Services	21,602	22,714
(b) Operation and Capital	5,505	4,888
Care and Custody		
(a) Personal Services	40,052	59,116
(b) Operation and Capital	21,876	24,245
General Services and Physical Plant		
(a) Personal Services	5,987	7,583
(b) Operation and Capital	5,850	3,427
Education and Rehabilitation		
(a) Personal Services	38,418	53,890
(b) Operation and Capital	10,280	5,780

(2) The head of this agency shall not receive a salary in excess of $10,000 for the fiscal year ending June 30, 1970; and $10,500 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.

GALEN STATE HOSPITAL

(1) From the General Fund for:

Administration		
(a) Personal Services	99,543	104,713
(b) Operation and Capital	17,496	17,678

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Care and Custody		
(a) Personal Services	889,731	935,939
(b) Operation and Capital	114,500	116,200
General Services and Physical Plant		
(a) Personal Services	134,363	141,337
(b) Operation and Capital	102,653	102,153
Mentally Retarded Care		
(a) Personal Services	120,153	126,390
(b) Operation and Capital	62,700	63,000
Care for the Aged		
(a) Personal Services	120,181	126,419
(b) Operation and Capital	40,000	41,300
Alcoholic Treatment		
(a) Operation and Capital	22,452	22,452

(2) The head of this agency shall not receive a salary in excess of $24,500 for the fiscal year ending June 30, 1970; and $25,000 for the fiscal year ending June 30, 1971.

MOUNTAIN VIEW SCHOOL

(1) From the General Fund for:

Administration		
(a) Personal Services	43,558	45,819
(b) Operation and Capital	12,750	11,500
Care and Custody		
(a) Personal Services	170,027	193,949
(b) Operation and Capital	53,100	53,200
General Services and Physical Plant		
(a) Personal Services	32,956	34,666
(b) Operation and Capital	32,100	29,900

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Education and Rehabilitation		
(a) Personal Services	66,153	69,715
(b) Operation and Capital	4,975	4,875
(2) From the Federal and Private Revenue Fund for:		
Care and Custody:		
(a) Personal Services	6,000	6,000
(b) Operation and Capital	1,000	1,000
Education and Rehabilitation		
(a) Personal Services	3,000	3,000
(3) The head of this agency shall not receive a salary in excess of $13,000 for the fiscal year ending June 30, 1970; and $13,500 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.		
PINE HILLS SCHOOL		
(1) From the General Fund for:		
Administration		
(a) Personal Services	66,335	69,780
(b) Operation and Capital	12,650	12,150
Care and Custody		
(a) Personal Services	380,555	408,814
(b) Operation and Capital	101,740	101,740
General Services and Physical Plant		
(a) Personal Services	78,595	82,673
(b) Operation and Capital	74,430	69,965
Education and Rehabilitation		
(a) Personal Services	180,006	193,877
(b) Operation and Capital	12,860	12,510

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Farm		
(a) Personal Services	39,596	41,648
(b) Operation and Capital	28,800	28,200
(2) From the Interest and Income Account for:		
Care and Custody		
(a) Personal Services	25,000	25,000
(3) The head of this agency shall not receive a salary in excess of $13,500 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971.		
STATE PRISON		
(1) From the General Fund for:		
Administration		
(a) Personal Services	104,799	110,251
(b) Operation and Capital	23,572	23,359
Care and Custody		
(a) Personal Services	918,027	974,165
(b) Operation and Capital	208,700	218,100
General Services and Physical Plant		
(a) Personal Services	132,835	139,727
(b) Operation and Capital	185,000	173,404
Education		
(a) Personal Services	35,757	45,763
(b) Operation and Capital	3,111	3,267
Ranches		
(a) Personal Services	98,618	103,731
(b) Operation and Capital	108,765	125,805
Bureau of Identification		
(a) Personal Services	39,861	41,932
(b) Operation and Capital	2,200	2,105

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(2) From the Motor Vehicle Account for:		
Care and Custody		
(a) Personal Services	175,000	175,000
(3) From the Prison Industrial Account for:		
Care and Custody		
(a) Operation and Capital	42,000	42,000
Ranch		
(a) Operation and Capital	33,000	33,000
(4) From the Federal and Private Revenue Fund for:		
Care and Custody		
(a) Personal Services	18,438	19,431
(5) The head of this agency shall not receive a salary in excess of $14,500 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.		
SWAN RIVER YOUTH FOREST CAMP		
(1) From the General Fund for:		
Administration		
(a) Personal Services	33,616	35,361
(b) Operation and Capital	6,812	8,612
Care and Custody		
(a) Personal Services	80,685	85,881
(b) Operation and Capital	3,424	3,424
General Services and Physical Plant		
(a) Personal Services	6,571	6,912
(b) Operation and Capital	19,825	19,825
Education and Rehabilitation		
(a) Operation and Capital	7,750	7,150

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(2) From the Federal and Private Revenue Fund for:		
Care and Custody		
(a) Personal Services	20,000	20,000
(b) Operation and Capital	38,126	38,126
(3) The head of this agency shall not receive a salary in excess of $12,500 for the fiscal year ending June 30, 1970; and $13,000 for the fiscal year ending June 30, 1971. No housing and maintenance shall be allowed in addition to the established salary.		
VETERANS' HOME		
(1) From the General Fund for:		
Administration		
(a) Personal Services	20,246	21,296
(b) Operation and Capital	5,270	4,840
Care and Custody		
(a) Personal Services	51,370	54,944
(b) Operation and Capital	7,050	9,078
General Services and Physical Plant		
(a) Personal Services	36,345	38,232
(b) Operation and Capital	7,369	5,268
(2) From the Federal Fund Soldiers' Home Account for:		
Care and Custody		
(a) Personal Services	17,500	17,500
(b) Operation and Capital	20,000	20,000
General Services and Physical Plant		
(a) Operation and Capital	22,500	22,500
(3) From the Interest and Income Account for:		

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Care and Custody

(a) Operation and Capital	3,000	—0—

(4) From the Soldiers' Home Deceased Members Account for:

Care and Custody

(a) Operation and Capital	—0—	560

(5) The head of this agency shall not receive a salary in excess of $8,500 for the fiscal year ending June 30, 1970; and $9,000 for the fiscal year ending June 30, 1971.

WARM SPRINGS STATE HOSPITAL

(1) From the General Fund for:

Administration

(a) Personal Services	218,263	229,594
(b) Operation and Capital	60,575	60,825

Care and Custody

(a) Personal Services	3,800,621	3,997,720
(b) Operation and Capital	929,111	988,350

General Services and Physical Plant

(a) Personal Services	327,152	344,133
(b) Operation and Capital	256,050	253,054

Alcoholic Treatment Program—Galen State Hospital

(a) Personal Services	72,745	76,186
(b) Operation and Capital	17,043	7,600

(2) From the Revolving Fund—Warm Springs State Hospital Account. All receipts from the Recreation Hall and Canteen. Any balance remaining in this account at the end of the biennium shall revert to the General Fund for:

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Canteen and Recreation Hall

(a)	Personal Services	32,214	33,886
(b)	Operation and Capital	85,500	85,500
(3)	**Community Mental Health Centers and Mental Hygiene Clinics**		
	a. From the general fund for the state mental hygiene clinic program and community mental health centers for operation, capital and personal services	410,000	410,000
	b. From the federal and private revenue fund mental hygiene account for:		
(1)	Personal Services	65,000	65,000
	c. From the federal and private revenue fund, mental hygiene account, for the community health centers program such funds that are available or become available for support of this program.		
	d. After receipt of federal funds into the regional mental health centers program the remaining cost of operating said programs shall be shared on an equal basis by the State of Montana and the regional mental health boards and participating counties.		
(4)	The head of this agency shall not receive a salary in excess of $32,000 for the fiscal year ending June 30, 1970; and $33,000 for the fiscal year ending June 30, 1971. Not to exceed $25,000 from the general fund in the first year of the biennium and $26,000 in the second year of the biennium. Collections for housing and maintenance shall revert to the general fund.		

Approved: March 17, 1969.

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HOUSE BILL NO. 599

An Act to Appropriate Monies to the Units of the Montana University System, the Agricultural Experiment Station, the Cooperative Extension Service, the Western Interstate Commission for Higher Education, the Office of the Executive Secretary of the Montana University System and the School for the Deaf and Blind for Personal Services, Operation, and Capital Expenditures for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "personal services" means all salaries and wages of employees of the state and the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized insurance program.

(2) The term "operation" means all ordinary and necessary expenditures for operation of the unit to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized by legislative act, or approval of the Board of Regents.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

(7) The term "student fees" means all registration and incidental fees, but not student building fees, and all nonresident building fees other than nonresident fees, which are imposed uni-

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formly on all students, or upon all nonresident students, in attendance at any unit of the Montana university system.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the units named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each unit shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amount set out in this act for the unit.

Section 5. In addition to the amounts specifically appropriated by this act, there is hereby appropriated all federal funds for existing programs, all nontreasury funds, including those funds related to various supporting facilities and organizations such as auxiliary enterprises and foundations. All other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No unit shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
UNIVERSITY OF MONTANA		
(1) From the earmarked revenue fund, student fee account, for personal services, operation and capital	$2,160,000	$2,255,000

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(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	1,800,000	1,850,000
(3)	From the general fund, for personal services, operation and capital	6,535,000	7,350,000
	MONTANA STATE UNIVERSITY		
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	1,950,000	2,000,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	1,900,000	1,925,000
(3)	From the general fund, for personal services, operation and capital	6,845,000	7,750,000
	AGRICULTURAL EXPERIMENT STATION		
(1)	From the general fund, for personal services, operation and capital	1,865,000	2,030,000
	COOPERATIVE EXTENSION SERVICE		
(1)	From the general fund for personal services, operation and capital	660,000	710,000
	MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY		
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	175,000	180,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	175,000	185,000
(3)	From the general fund for personal services, operation and capital	1,110,000	1,185,000
(4)	From the general fund for coal research	40,000	—0—

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EASTERN MONTANA COLLEGE			
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	845,000	880,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	775,000	800,000
(3)	From the general fund for personal services, operation and capital	2,175,000	2,335,000
NORTHERN MONTANA COLLEGE			
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	310,000	320,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	350,000	355,000
(3)	From the general fund for personal services, operation and capital	1,160,000	1,225,000
WESTERN MONTANA COLLEGE			
(1)	From the earmarked revenue fund, student fee account, for personal services, operation and capital	245,000	250,000
(2)	From the earmarked revenue fund, university millage account, for personal services, operation and capital	260,000	265,000
(3)	From the general fund for personal services, operation and capital	680,000	735,000
OFFICE OF EXECUTIVE SECRETARY MONTANA UNIVERSITY SYSTEM			
(1)	From the general fund for personal services, operation and capital	69,866	77,731
(2)	From the general fund for N.D.E.A. matching loan funds	35,000	35,000
(3)	From the general fund for W.I.C.H.E. administration	16,000	16,000

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(4)	From the general fund for W.I.C.H.E. student payments	239,200	310,200
(5)	From the federal and private revenue fund, executive secretary account for personal services, operation and capital	60,000	60,000
SCHOOL FOR THE DEAF AND BLIND			
(1)	From the general fund for personal services, operation and capital	482,243	499,862
(2)	Deaf and blind interest and income account	25,000	25,000

Section 8. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Approved: March 17, 1969.

HOUSE BILL NO. 600

An Act to Appropriate Fifty Thousand Dollars ($50,000) From the General Fund to the Legislative Council for the Legislative Fiscal Review Committee for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Fifty thousand dollars ($50,000) is appropriated from the general fund to the legislative council for the legislative fiscal review committee for the biennium ending June 30, 1971.

Approved: March 19, 1969.

HOUSE BILL NO. 609

An Act Appropriating Monies to State Agencies for Capital Projects for the Biennium Ending June 30, 1971.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following monies are appropriated for the biennium ending June 30, 1971, for the purchase of land, and construction and furnishing of buildings and other improvements to land:

AERONAUTICS COMMISSION

(1) From the federal and private grant clearance fund, Aeronautics Account #505400, Terminal Building, West Yellowstone $193,500

(2) From the federal grant clearance fund, aeronautics commission account, all monies appropriated by federal government for specific airport projects.

UNEMPLOYMENT COMPENSATION COMMISSION

(1) From the federal and private revenue fund, U.C.C. Account #410428, Employment Service Building, Great Falls 387,728
Employment Service Building addition, Billings 174,500
Employment Service Building, Missoula 226,850
Employment Service Building, Helena 226,850

BOULDER RIVER SCHOOL AND HOSPITAL

(1) From the federal and private revenue fund, Account #403100, Chapel 100,000

Section 2. The balance of any appropriation unexpended at the end of the biennium which is not encumbered by purchase order or obligated by other written contract shall revert to the fund from which it was appropriated.

Section 3. Monies appropriated for one project for the Unemployment Compensation Commission may be used for another project upon approval by the governor of a request submitted to him by the state controller.

Approved: March 17, 1969.

HOUSE BILL NO. 611

An Act Appropriating $2,000,000 to the State Controller From the Capitol Building Program Account, Bond Proceeds and Insurance Clearance Fund, of Which $250,000 Is for Land Acqui-

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sition for Public Buildings at the Capitol of the State, $1,000,000 is for Construction of a Supreme Court and Law Library Building, and $750,000 Is for Renovation of Legislative Areas of the State Capitol Building for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Two million dollars ($2,000,000) is appropriated from the capitol building program account, bond proceeds and insurance clearance fund to the state controller for the biennium ending June 30, 1971 for the following purposes:

(a) for land acquisition for public buildings at the state capitol ..... $ 250,000

(b) for construction of a supreme court and law library building 1,000,000

(c) for renovation of the legislative areas of the state capitol building 750,000

Approved: March 17, 1969.

HOUSE BILL NO. 617

An Act to Appropriate Moneys for Vocational Education for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated for the biennium ending June 30, 1971, the following moneys:

(1) From the general fund:

(a) to the state board for vocational education to implement the primary source of financing provision of of House Bill 481 of the Forty-first Legislative Assembly $3,000,000

(b) to the state board for vocational education for vocational education not included under the provisions of House Bill 481 of the Forty-first Legislative Assembly 900,000

(c) to northern Montana college for training vocational-technical teachers 100,000

(2) All federal moneys deposited in the superintendent of pub-

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lic instruction federal and private grant clearance account (510403) are hereby appropriated.

Approved: March 19, 1969.

HOUSE BILL NO. 619

An Act to Appropriate $25,000 From the Oil and Gas Conservation Commission Account in the Earmarked Revenue Fund to the State Treasurer for Deposit in the General Fund.

WHEREAS, the Oil and Gas Conservation Commission was created by chapter 238, Laws of 1953, and

WHEREAS, for the 1953-1955 biennium the Oil and Gas Conservation Commission was appropriated $23,000 from the Montana general fund, and

WHEREAS, since its creation the commission has collected sufficient privilege and license taxes and permit fees from operators and producers of oil and gas to completely defray all expenses of the commission and even build a surplus in excess of the original appropriation of $23,000, and

WHEREAS, it appears and the commission has agreed that it does not now, nor will it need this surplus, and

WHEREAS, even at a modest interest rate the $23,000 appropriation would have appreciated to much more than $25,000 during the past sixteen years.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated twenty-five thousand dollars ($25,000) from the oil and gas conservation commission account in the earmarked revenue fund to the state treasurer.

Section 2. The state treasurer shall deposit in the general fund the amount appropriated by section 1 of this act.

Approved: March 17, 1969.

HOUSE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives That the Superintendent of Yellowstone National Park and Vari-

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ous Montana Veteran, Wild Life and Sportsmen Organizations Reach an Agreement Whereby Members Will Be Available to a Call of the Superintendent to be Deputized as Park Rangers to Assist Regular Park Rangers in Reducing the Elk Population in the Park to Safe and Sustainable Numbers.

WHEREAS, from time to time the elk population of Yellowstone National Park increases to the point of overpopulation creating a hazardous condition whereby available forage becomes insufficient to safely sustain the elk and large numbers of them die from starvation and whereby there is also deterioration of the surviving elk and of the critical grazing area, and

WHEREAS, varying methods for relieving this problem have been used with relatively poor results, namely: a firing line, transplanting elk, and slaughter of excess elk by regular park rangers; which methods have been undesirable, unsuccessful and have given rise to general public criticism, and

WHEREAS, there are able-bodied members of Montana veteran, wild life, and sportsmen organizations who would be willing to assist the Yellowstone Park officials in reducing the size of the elk herd so as to relieve the emergency condition, and

WHEREAS, the superintendent of Yellowstone National Park has great latitude and discretion in handling problems of this nature, and

WHEREAS, other national park superintendents have deputized private citizens to act as temporary deputy park rangers, under the specific direction and supervision of regular park rangers.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPPRESENTATIVES OF THE STATE OF MONTANA:

That various Montana veteran, wild life and sportsmen organizations and the superintendent of Yellowstone National Park reach a voluntary working agreement whereby members of such organizations will be available on a standby basis to a call of the superintendent to go to Yellowstone National Park and be deputized as park rangers for the purpose of assisting the regular park rangers in reducing the elk population to safe and sustainable numbers, and

BE IT FURTHER RESOLVED, that the superintendent of Yellowstone Park be requested and be authorized to establish proper and reasonable rules and regulations to carry out the purposes of the program, and

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BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this joint resolution to the superintendent of Yellowstone National Park, the directors of the National Park Service and to the members of the Montana Congressional Delegation.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Fight Site of Meriwether Lewis and His Men With Blackfeet Indians on the South Bank of the Two Medicine River on the Blackfeet Indian Reservation of the State of Montana and the Surrounding Area Evidencing Ancient Marine and Animal Life and Indian Cultures Be Designated as Both an Historical Landmark and National Monument.

WHEREAS, on July 26, 1806, Captain Meriwether Lewis with Drewyer and the two Fields brothers made contact with eight Blackfeet Indians on the south bank of the Two Medicine River in what is now the Blackfeet Indian Reservation in Montana, and

WHEREAS, after meeting with said Indians, they descended the high bluffs to a camping spot vividly and accurately described in the journals of Meriwether Lewis and made camp under three large cottonwood trees standing alone and apart from other trees, and

WHEREAS, early the next morning, in an attempt to steal the horses and guns of Lewis and his party, a fight ensued in which one Indian was shot by Captain Lewis and a second one stabbed by one of the Fields brothers, and

WHEREAS, this was the only skirmish with members of any Indian tribe on the entire expedition resulting in a loss of life, and

WHEREAS, this skirmish and the resulting hostility of the Blackfeet prevented such area from being opened to trade by at least twenty-five (25) years, and

WHEREAS, had the Indians prevailed in said skirmish and Lewis and his party been killed, valuable journals and records would have been most probably destroyed and lost forever, and this important part of the Lewis & Clark Expedition and all its benefits would have been nullified, and

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WHEREAS, this episode has been deemed by some historians the most serious single threat to the successful accomplishment of the Lewis & Clark Expedition, and

WHEREAS, this fight site is within the exterior boundaries of the Blackfeet Indian Reservation and actually on land standing in the United States of America in trust for certain Blackfeet wards of the government, and

WHEREAS, it is in a wild and scenic area, quite remote from actual travel to the fight site except by foot or horseback, and

WHEREAS, the importance of this encounter, the surrounding typography and the three trees under which they camped, will admirably lend themselves to development as an historical area which should be preserved for future generations, and

WHEREAS, in close vicinity to the fight site, isolated buffalo skulls and bones have been discovered along with the petrified remains of sea animals such as mollusks, clams and other invertebrates together with petrified bones of animals embedded in sandstone indicating an age running into millions of years, and

WHEREAS, ancient Indian teepee rings abound in the area along with discernible mounds of stone placed in rows at strategic places behind which the Indians hid in order to haze game animals to a definite area, and

WHEREAS, along the banks of the Two Medicine River in the area of the fight site there is a piskun as evidenced by what appears to be layers of buffalo bones discernible along the river bank, and particularly along the sides and roofs of caves found in that area immediately below the jump, and

WHEREAS, as knowledge spreads of the actual location of the fight site, the presence of buffalo skulls, petrified bones of great age, evidence of an old Indian culture and a piskun, souvenir and artifact hunters will overrun and harm the historical and anthropologic evidences, particularly the three trees where Lewis and his men camped with the Indians on the piskun.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPPRESENTATIVES OF THE STATE OF MONTANA:

That the fight site area hereinabove referred to be designated by the United States of America as an Historical Landmark, and

BE IT FURTHER RESOLVED, that the area surrounding the

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fight site be thoroughly examined as to evidences of early Indian culture and ancient marine and animal life and that such study being favorable the area be protected and developed as a National Monument,

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this Resolution to all the members of Montana's Congressional delegation at Washington, D.C., to the Secretary of the Interior, to the Bureau of Indian Affairs and to the Secretary of Interior's Advisory Board on National Parks, Historical Sites, Buildings and Monuments.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and House of Representatives Consenting to a Creative Arts Facility—Phase I at Montana State University.

WHEREAS, Section 82-3316, R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Creative Arts Facility—Phase I at Montana State University—three million nine hundred forty-six thousand five hundred dollars ($3,946,500).

Approved: February 28, 1969.

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HOUSE JOINT RESOLUTION NO. 6

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Montana Congressional Delegation Asking That the Secretary of the Treasury Be Directed to Forward to the State of Montana All Unclaimed and Unpaid Deposits in the Discontinued United States Postal Savings System, Plus Interest, in Which the State of Montana Is Interested.

WHEREAS, the United States Congress discontinued the postal savings system in 1966, and

WHEREAS, The Board of Trustees of the Postal Savings System was vested with the duty to insure distribution of deposits of a deceased or presumed dead person to the proper party entitled to receive same, and

WHEREAS, on July 1, 1967, the total amount of unpaid deposits was transferred to the United States Treasury to the credit of the trust fund receipt account "Unclaimed moneys of individuals whose whereabouts are unknown," and

WHEREAS, Montana has a law relating to the disposition of unclaimed property which law protects the interest of original owners and provides that funds coming to the state of Montana under this law are deposited in the public school fund, and pursuant to this law the state of Montana has instituted a legal action to recover all such funds properly belonging to the State of Montana.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress is requested to direct the Secretary of the Treasury to transmit to the treasurer of the state of Montana the total amount of all deposits, with interest, in said trust fund receipt account, which remain unclaimed and unpaid, and:

(a) which were at the time of termination of said Postal Savings System deposited with any post office in the state of Montana; and

(b) which were at the time of termination of said Postal Savings System deposited with any post office in the United States or its territories where the last known address of the depositor was a Montana address.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to each member of the

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Montana congressional delegation and to the Secretary of the Treasury.

Approved: February 24, 1968.

HOUSE JOINT RESOLUTION NO. 8

A Joint Resolution of the Senate and House of Representatives Requesting the Montana Highway Commission to Designate as Primary Highway the Portion of the Bainville to Fort Union Road That Lies in Montana.

WHEREAS, there are very few national parks in eastern Montana, and

WHEREAS, the National Park Service has designated Fort Union in northeast Montana as a national Park, has appropriated funds for the development of this historical site, and present plans are that the fort be fully reconstructed within five years, and

WHEREAS, a large amount of archeological work began at this site in the summer of 1968, and will continue in 1969, and

WHEREAS, there were 95,000 visitors at the Fort Union site in 1968, and the estimate by the National Park Service is that, if adequate all weather roads are provided, over 300,000 people will visit the site annually after it is fully reconstructed, and

WHEREAS, as soon as the fort is reconstructed, the state of North Dakota will designate as part of its highway primary system that portion of highway which lies in North Dakota from U.S. Highway 2 to Fort Union.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana highway commission designate as primary highway that portion of the Bainville to Fort Union road which lies in Montana.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to the members of the Montana state highway commission.

Approved: March 5, 1969.

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HOUSE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives Establishing the Intent of the Legislative Assembly That the State of Montana Shall Adopt at the Earliest Feasible Date a Basis of Accounting That Is in Accordance With Generally Accepted Governmental Accounting Principles That Take Into Account the Accrual or Modified Accrual Basis of Accounting Where Applicable.

WHEREAS, the basis of accounting is a device for matching revenues and expenditures during a designated period of time and refers specifically to the time when revenues and expenditures are recorded as such in the accounting records, and

WHEREAS, the "cash basis" of accounting is a system which recognizes incomes or revenues only when collected and expenditures only when paid, and

WHEREAS, under the "modified accrual basis" of accounting, revenues are recorded when they are received in cash and expenditures are recorded when the liability for them is initially incurred, and

WHEREAS, under the "full accrual basis" of accounting, revenues are recorded in the accounts at the time they are earned and expenditures are recorded when the liability for them is initially incurred, and

WHEREAS, under the cash basis of accounting, an accurate comparison of expenditures in relation to the receipt of goods or services is not possible, because the goods or services may be received in one fiscal year and the payment therefor not be made until the following fiscal year, and

WHEREAS, the accrual basis of accounting, to the extent that is practicable, provide a superior method of accounting for the inflow and outgo of economic resources in any organization because it relates costs and expenditures to the time period in which benefits of the outlays are received and because it provides a more accurate matching of these benefits with associated revenues, and

WHEREAS, the accrual or modified accrual basis of accounting is the method most generally accepted by governmental authorities for budgeting, accounting, and reporting upon the financial aspects of governmental activities, and

WHEREAS, the federal government is requiring, at an increas-

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ing rate, recipients of federal funds to account for the expenditures of these funds on the accrual basis, and

WHEREAS, the budgeting, accounting, and reporting of the financial affairs of the state of Montana are currently applied utilizing the cash basis of accounting, and

WHEREAS, the Legislative Assembly deems that the interests of the state of Montana would best be served if its financal activities are budgeted, accounted, and reported utilizing the accrual or modified accrual basis of accounting to the most practicable extent.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That it is the intent of the Legislative Assembly that the state of Montana adopt at the earliest feasible date a basis of accounting that is in accordance with generally accepted governmental accounting principles which take into account the accrual or modified accrual basis of accounting where applicable, and

BE IT RESOLVED, that the Governor shall include in the 1971-73 executive budget, supplemental financial information to show the effect of adopting this change effective July 1, 1971, and

BE IT FURTHER RESOLVED, that during the 1969-71 interim the State Controller shall inventory all statutes in conflict with this intent and shall submit recommended changes to the forty-second legislative assembly, and

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Governor and the State Controller.

Approved: February 28, 1969.

HOUSE JOINT RESOLUTION NO. 10

A Joint Resolution of the Senate and House of Representatives of the State of Montana Urging the Use of Montana Materials and Products in the Construction of Public Buildings and Structures.

WHEREAS, there exists in Montana a variety of natural resources such as timber, marble, travertine, other construction stone and other materials suitable for use in construction projects; and

WHEREAS, the possibility of using Montana materials and prod-

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ucts is often ignored when planning and constructing public building and structures in the state of Montana; and

WHEREAS, the specifications for such public projects often set forth requirements for the use of foreign and out of state products and materials.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That all institutions and agencies of the state of Montana are urged to consider and advocate the use of Montana products and materials when planning and constructing a public building or structure.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send a copy of this resolution to the governor.

Approved: March 5, 1969.

HOUSE JOINT RESOLUTION NO. 11

A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council to Prepare Legislation Providing for a Viet Nam Honorarium.

WHEREAS, Montana has recognized the overseas service of military personnel in World War I, World War II, and the Korean Conflict with an Honorarium, and

WHEREAS, the Viet Nam military action has continued for several years but will hopefully end before the next session of the legislature.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is hereby requested to prepare legislation patterned on previous similar legislation providing for an Honorarium for Montana Veterans of the Viet Nam Conflict, estimating the cost thereof, and providing for the necessary bonds to be repaid from such sources as may be decided upon, and

BE IT FURTHER RESOLVED, this report is to be prepared for the 42nd legislative assembly.

Approved: February 24, 1969.

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HOUSE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives Directing a Study Be Made of the Feasibility of Acquiring State Land in the Smith River Canyon in Meagher and Cascade Counties for the Purpose of Establishing the Smith River Recreational Park.

WHEREAS, the "Smith River Recreational Park" should be established in the Smith River Canyon in western Meagher and southern Cascade counties, because of its intrinsic natural beauty and the inaccessible blue ribbon trout stream flowing therein; and

WHEREAS, there are vast limestone caverns located in the canyon; and

WHEREAS, the canyon has potential value and facility for possible float trips for scenic and recreational purposes, and the potential of ground water aquifers in the upper valley which can be utilized to reinforce stream flow during the dry season; and

WHEREAS, game management in the canyon area could provide excellent hunting for game animals and birds, and some of the tributaries thereto could provide exceptional fish hatchery locations; and

WHEREAS, the establishment of the park would help the present economic conditions in the White Sulphur Springs area; and

WHEREAS, cooperation with the federal agencies controlling land in parts of the canyon area would be necessary for the establishment of a state park in the canyon area and the acquisition of state lands necessary therefor; and

WHEREAS, a study should be made for the purpose of determining the feasibility of acquisition of lands in the area for this purpose.

NOW, THEREFFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the governor's council on natural resources and development, with the assistance of the legislative council, conduct an interim feasibility study of the possibility of acquiring state lands in the Smith River Canyon in western Meagher and southern Cascade counties, together with some of the tributaries thereto, for the purpose of establishing the "Smith River Recreational Park," and

BE IT FURTHER RESOLVED, that a written report on the

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study together with the council's recommendations be submitted to the governor on or before December 1, 1970, and

BE IT FURTHER RESOLVED, that copies of this resolution be mailed to the governor of Montana, the members of the governor's council on natural resources and development, the members and executive director of the legislative council, the state forester, the state land commissioner, state highway commission, state fish and game commission, U.S. Forest Service regional office, Missoula, Montana, and the U.S. Bureau of Land Management office, Billings, Montana.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 14

A Joint Resolution of the Senate and House of Representatives Asking That Highway 16 From Glendive via Sidney, Culbertson, Plentywood, and Port of Raymond Be Designated as the Interstate Connection With the Province of Saskatchewan.

WHEREAS, the interstate highway act requires that there be a connection between each of the provinces of Canada and the interstate system in the United States, and

WHEREAS, there has to date been no designation of an interstate route to the province of Saskatchewan.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the general route of highway 16 from Glendive via Sidney, Culbertson, Plentywood, and Port of Raymond be designated as the interstate connection with the province of Saskatchewan.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Governor of Montana, to each member of the State Highway Commission, to the Bureau of Public Roads in both Helena, Montana and in Washington, D.C. and to each member of the Montana Congressional Delegation.

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 16

A Joint Resolution of the Senate and House of Representatives of the State of Montana Declaring That the Facilities of the

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Galen State Hospital Should be Fully Utilized; and Requesting That the Board of Institutions Continue Studies to Determine Methods to More Efficiently and Completely Utilize the Facilities of the Galen State Hospital Including Consideration of Locating Persons at the Warm Springs Facility for Alcohol Rehabilitation at the Galen State Hospital While Retaining Control of Therapy Under Warm Springs State Hospital, and Requesting the Board of Institutions to Proceed Without Delay to Assign Additional Functions to the Galen State Hospital if Determined to be Feasible and Desirable.

WHEREAS, the Galen State Hospital was established in 1913 for patients suffering from tuberculosis and silicosis (commonly called miners' consumption); and

WHEREAS, since its establishment the Galen State Hospital has treated more than 13,000 patients for diseases of the chest; and

WHEREAS, in recent years there has been an increase throughout the state in all types of tuberculosis; and

WHEREAS, evidence of this increase is seen in the fact that 88 patients were admitted to the hospital in 1967, but there were 128 new admissions in 1968 for tuberculosis; and

WHEREAS, the State Board of Health does not forsee any decrease in the incidence of tuberculosis for at least the next two years; and

WHEREAS, during 1968 there were 276 patients suffering from diseases other than tuberculosis, such as silicosis, emphysema, bronchiectasis, carcinoma of the lung, and cardiovascular ailments, admitted to the hospital; and

WHEREAS, the present patient load at the hospital is 134 including 56 persons suffering from tuberculosis; and

WHEREAS, the hospital also treats, as permanent patients, some 94 mentally retarded persons and 75 aged persons; and

WHEREAS, the present recalcitrant patient statute of the state would be difficult to enforce if tuberculosis patients were treated in private hospitals throughout the state; and

WHEREAS, in recent years, emphysema cases have shown a marked increase throughout the nation and the state; and

WHEREAS, many patients with pulmonary disorders have exhausted their benefits under Medicare and would experience extreme hardship if other treatment were not available; and

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WHEREAS, private hospital per diem costs now average $67 per day throughout the nation making care in these hospitals prohibitive for many persons, but the per diem costs at Galen State Hospital in 1968 were only $21.92; and

WHEREAS, Galen State Hospital is the only state facility that is an accredited hospital which can provide surgical services to persons at Warm Springs State Hospital, the State Prison, and persons suffering from pulmonary ailments at other state institutions; and

WHEREAS, the national trend is toward caring for all long-term ailments, as well as pulmonary diseases, in institutions like Galen State Hospital.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly hereby declares that the best interests of the state of Montana and its citizens would be served best by the full utilization of the facilities of the Galen State Hospital.

BE IT FURTHER RESOLVED, that the Legislative Assembly requests that the Board of Institutions continue studies to determine methods to more efficiently and completely utilize the facilities of the Galen State Hospital, including consideration of locating persons at the Warm Springs facility for alcohol rehabilitation at the Galen State Hospital while retaining control of therapy under Warm Springs State Hospital, and, that if it is determined feasible and desirable to assign additional functions to the Galen State Hospital, the Board of Institutions in requested to proceed without delay.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Governor, to each member of the board of Institutions, and to the Director of the Department of Institutions.

Approved: March 13, 1969.

HOUSE JOINT RESOLUTION NO. 17

A Joint Resolution of the Senate and House of Representatives Consenting to Completion of the Air Condition and Heating Con-

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trol Units and Modification of Fourth Floor for the Library at Montana State University.

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Completion of the air condition and heating control units and modification of fourth floor for the library at Montana State University—one hundred fifty thousand dollars ($150,000).

Approved: February 27 1969.

HOUSE JOINT RESOLUTION NO. 18

A Joint Resolution of the Senate and House of Representatives Consenting to an Addition and Renovation to the Student Health Center at Montana State University.

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

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That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Addition to and renovation of the Student Health Center at Montana State University — two hundred seventy-five thousand dollars ($275,000).

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 19

A Joint Resolution of the Senate and House of Representatives Consenting to Renovation of the Health Service Building at the University of Montana.

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides, that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Renovation of the Health Service Building at the University of Montana—four hundred forty thousand dollars ($440,000).

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 20

A Joint Resolution of the Senate and House of Representatives Consenting to an Addition to and Renovation of the Field House at the University of Montana.

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WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, provides that with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly, and

WHEREAS, section 88-3316 [82-3316], R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent may be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than the appropriated funds from regular state revenues for state operations, the legislative assembly consents to the following capital construction program:

Addition to and renovation of the Field House at the University of Montana—two million two hundred thousand dollars ($2,200,000).

Approved: February 28, 1969.

HOUSE JOINT RESOLUTION NO. 21

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, the Montana Congressional Delegation and the United States Army Corps of Engineers, Urging Greater Cooperation and Consideration by the Corps of Engineers for the Fish and Wildlife Resources of Montana During Construction and Operation of Their Projects in Montana, and Urging Intensified Efforts to Improve Aquatic Environment of Fort Peck Reservoir.

WHEREAS, the fish and wildlife populations of the state of Montana have always been, still are, and always will be of vital concern to the people of this state: and

WHEREAS, the fish and wildlife of Montana are becoming increasingly more valuable economically as well as aesthetically; and

WHEREAS, although some Corps of Engineers projects have demonstrated an ability to improve fishing as in certain water level manipulations at Fort Peck; many projects, such as the project on the Fisher River, have severely damaged Montana fish and wildlife habitat; and

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WHEREAS, the need for close coordination and cooperation between the Corps of Engineers and the responsible state fish and wildlife management agency is obvious.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Corps of Engineers of the Montana Fish and Game Commission continue and intensify their cooperative efforts to obtain a suitable aquatic environment in Fort Peck Reservoir for the production of game fish, particularly northern pike, and

BE IT FURTHER RESOLVED, that the corps of engineers do everything possible to minimize the damage to fish and wildlife habitat and to completely mitigate unavoidable losses during project construction.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Montana Fish and Game Commission and to the Chief of Engineers of the Corps of Engineers.

Approved: March 4, 1969.

HOUSE JOINT RESOLUTION NO. 22

A Joint Resolution of the Senate and House of Representatives Requesting That the Governor Appoint a Task Force to Study the Complex Problems of the Montana Indians.

WHEREAS, there are some 36,000 people of American Indian descent living within the boundaries of the state of Montana, approximately 25,000 of whom are living within the exterior boundaries of seven reservations and the remainder of whom are scattered throughout the state of Montana, and

WHEREAS, the conditions of these reservations and of other Indian communities are deplorable and far below the standards of the rest of the state of Montana, and

WHEREAS, nine out of ten houses on the Montana Indian reservations are beneath normal standards of comfort, safety, health, and decency, and

WHEREAS, the unemployment rate on the Indian reservations is 40 to 50 per cent being seven to eight times the national average, and

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WHEREAS, because of the above conditions, the average life span of people of Indian descent is 42 years, 20 years less than the national average of 62 years, and

WHEREAS, one out of two Indian students drop out of school without completing high school, and the average level of education on the reservations is eight years, two-thirds the national average of 12 years, and

WHEREAS, there is an alarmingly high rate of drop-outs on the college level, at times as high as 95 percent, and

WHEREAS, the average income of the Montana Indian is far beneath the poverty level; the reservations being capital-starved areas where economic growth is practically nil despite recent efforts of the office of Economic Opportunity and Economic Development Administration and despite the administration by the federal Bureau of Indian Affairs for the past 114 years, and

WHEREAS, excessive consumption of alcohol and alcoholic abuse by Indians have led to crime and a disproportionate welfare burden, and

WHEREAS, the Indian suicide rate, which is approximately 20 times higher than the national average, is a reflection of the hopeless condition of the First Americans, and

WHEREAS, there are able and concerned Indian people within the state of Montana who wish a firm course of action to be taken to alleviate the aforementioned conditions for the betterment of the American Indians of Montana, and

WHEREAS, to the knowledge of the concerned Indians and non-Indian friends there has never been a statewide study contemplated or initiated.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the governor of Montana is requested to appoint a task force to thoroughly study the complex conditions of Montana's Indians and suggest a course of action to the 42nd Legislative Assembly of Montana, and

BE IT FURTHER RESOLVED, that the task force be composed of competent representatives of: Indians of the seven reservations, counties with Indian population, clergy, six units of the University System and private colleges, the Montana Advisory Council to the

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United States Commission on Civil Rights, and a representative cross section of private citizens of impartial mind, and

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send a copy of this resolution to the Honorable Forrest Anderson, Governor of Montana.

Approved: March 11, 1969.

HOUSE JOINT RESOLUTION NO. 25

A Joint Resolution of the Senate and House of Representatives of the State of Montana Consenting to an Office Building to be Constructed as an Investment by the Teachers Retirement Board.

WHEREAS, Section 82-3316, R.C.M. 1947, provides that, with certain exceptions, a building costing more than twenty-five thousand dollars ($25,000) may not be constructed without the consent of the legislative assembly; and

WHEREAS, Section 82-3316, R.C.M. 1947, further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, the consent shall be in the form of a joint resolution; and

WHEREAS, the Teachers Retirement Board could construct a building using funds from the teachers' retirement account in the agency fund which would not only provide office space for the board, but would also be a wise and prudent investment because additional office space in the building could be rented to other state agencies or private persons.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than appropriated funds, the legislative assembly consents to the following capital construction program:

Office building to be constructed in Helena by the Teachers Retirement Board for office space and also for space to be rented, funds not in excess of one hundred fifty thousand dollars ($150,000) to be provided from the teachers' retirement account in the agency fund.

Approved: March 3, 1969.

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HOUSE JOINT RESOLUTION NO. 26

A Joint Resolution of the Senate and House of Representatives Requesting That Cities and Counties Review the Feasibility of Joint Use of Facilities, Space, Equipment, and Personnel With the Objective of Effecting Greater Economy and Avoiding Duplication.

WHEREAS, in many counties of the great state of Montana there exist cities that maintain their own facilities, space, equipment and personnel, and

WHEREAS, in those same counties, the county governments maintain their own facilities, space, equipment and personnel, and

WHEREAS, in many cases, the cities and counties could make joint use of said facilities, space, equipment and personnel, and

WHEREAS, said joint use of facilities, space, equipment and personnel would avoid duplication of effort and expenditure of unnecessary tax dollars.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the city fathers of the cities of our state and the respective boards of county commissioners of our counties review the availability and feasibility of joint use of their facilities, space, equipment and personnel, and where reasonable and in the best interests of the citizens of their cities and counties to the extent feasible, make provision for the joint use of their facilities, space, equipment and personnel.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to duplicate copies of this resolution and send a copy to each board of county commissioners and to each incorporated city and town.

Approved: February 27, 1969.

HOUSE JOINT RESOLUTION NO. 27

A Joint Resolution of the Senate and House of Representatives to the Montana Congressional Delegation and to the Secretary of Agriculture Asking That Appropriate Changes Be Made in Federal Statutes so That Montana Meats, Inspected Under State In-

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spection Which Has Been Approved as Equal to Federal Inspection Standards, May Be Shipped in Interstate Commerce.

WHEREAS, Congress passed the Wholesome Meat Act in 1967, which act provides that a state meat inspection system must be equal to that of the federal system, and

WHEREAS, federal standards are now required of all meat and meat food products sold for human consumption in this country, and

WHEREAS, Montana has entered into an agreement with the Secretary of Agriculture pursuant to which Montana has developed and is administering an approved state meat inspection program which is at least equal to federal program, and

WHEREAS, meat prepared for distribution in interstate commerce is still subject to federal inspection, and

WHEREAS, the structure of state meat inspection is being weakened because, although it meets federal standards, it is used only for intrastate processing plants, and

WHEREAS, there seems to be no economic justification nor valid reason for keeping state inspection which is equal to federal inspection limited to a very few small plants.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress amend the proper federal laws to provide that states meeting meat inspection standards which are at least equal to federal inspection standards, be allowed to inspect meat prepared for interstate commerce, and

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to each member of the Montana Congressional Delegation and to the Secretary of Agriculture.

Approved: February 24, 1969.

HOUSE JOINT RESOLUTION NO. 29

A Joint Resolution of the Senate and House of Representatives of the State of Montana Encouraging the State Superintendent of Public Instruction to Compile for the Legislative Council a Report on Programs of Shared Services for Local School Districts.

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WHEREAS, many local school districts lack the human and material resources to provide efficiently and economically many types of educational programs needed to prepare students for a complex and changing society, and

WHEREAS, an increasing number of specialists, programs, and supportive services are required to produce and maintain a curriculum which more fully serves the needs of children, and

WHEREAS, the efficiency and economy of the educational program may be increased through the development of well planned shared service programs in such areas as purchasing, teacher recruiting, transportation and administration, and

WHEREAS, the needs of children vary extensively from child to child according to the child's abilities, interests, and talents, and

WHEREAS, Montana's problems of population distribution, distance, and system of district organization make it very difficult for a significant number of school districts to provide necessary services, and

WHEREAS, shared service programs have shown themselves to be efficient, economical, and effective in providing needed services for youth, both in Montana and throughout the United States.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State Superintendent of Public Instruction Compile a report on the potential of, benefits of, and problems associated with programs of shared services.

BE IT FURTHER RESOLVED, that the State Superintendent of Public Instruction may, in his discretion, appoint any advisory persons or groups to assist in gathering information for this report and may, in his discretion, request assistance from the Montana University System, and

BE IT FURTHER RESOLVED, that the State Superintendent of Public Instruction should report his findings to the Montana Legislative Council.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the State Superintendent of Public Instruction and the Executive Director of the Legislative Council.

Approved: March 11, 1969.

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HOUSE JOINT RESOLUTION NO. 30

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requiring the National Park Service to Advertise, Erect Signs and Information Posts and Otherwise Emphasize the Importance of the Chief Joseph Battleground at the Site of the Battle of the Bear's Paw.

WHEREAS, the battle of the Bear's Paw which took place between September 30, and October 5, 1877, between the U.S. Army and the Nez Perce Indians led by Chief Joseph, ended the last major Indian war in the United States, and

WHEREAS, for Chief Joseph and his hungry and freezing followers the battle was one of retreat, withdrawal, refusal to surrender their way of life, and a desperate bid for freedom which was lost when they were within just a few miles of that freedom, in Canada, and

WHEREAS, this battle terminated one of the most extraordinary Indian wars on record throughout which the Indians displayed a courage and skill that elicited universal praise, and

WHEREAS, although Chief Joseph's pathetic statement upon surrender, which ends, "From where the sun now stands I will fight no more forever" is well known and recognized, the site of the battlefield named after him because of his final courageous stand is not well known.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the National Park Service is requested to circulate more information about the Chief Joseph Battlefield, to erect and staff a suitable visitors' information center at the site, and wherever appropriate to erect additional signs and information posts which will attract travelers from throughout the nation to this most important and inspiring historic site.

BE IT FURTHER RESOLVED, that the secretary of state is requested to send a copy of this resolution to the Director of the National Park Service and a copy to the Secretary of the Interior.

Approved: March 13, 1969.

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HOUSE JOINT RESOLUTION NO. 31

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Honorable Mike Mansfield, Senator, the Honorable Lee Metcalf, Senator, the Honorable Arnold Olsen, Representative, and the Honorable James Battin, Representative, and to Other Federal Officials Connected With the Administration of Public Lands Asking That Congress Enact Legislation Permitting Twenty-Five Percent (25%) of the Gross Sales of National Forest Products to Be Deposited in the Funds of the County Where the Products Are Grown to Replace the Tax Loss to the Counties Wherein These Public Lands Are Located.

WHEREAS, of all public lands in the state of Montana, two-fifths (2/5) are either owned or controlled by the federal government; and

WHEREAS, the consequences of governmental policies with regard to these lands are of vital importance to the state of Montana; and

WHEREAS, Congress has created a public land law review to consider and prepare legislation with regard to federally controlled public lands; and

WHEREAS, many other federal laws exist and are being enforced which will affect the future uses and development of public lands; and

WHEREAS, the federal policy with regard to the disposition and uses of public lands recognizes the multiple use concept; and

WHEREAS, the state of Montana endorses the principle that multiple uses of public lands should be recognized at all levels of representation on governmental and administrative boards.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress is requested to provide by legislation that twenty-five percent (25%) of the gross receipts of all sales of national forest products be deposited in the funds of the counties in which they are grown to replace the tax losses to the counties wherein these public lands are located.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Honorable Mike Mansfield, the Honorable Lee Metcalf, the Honorable Arnold Olsen,

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and the Honorable James Battin, to the Secretary of the Department of Agriculture and to the Secretary of the Department of the Interior.

Approved: March 11, 1969.

HOUSE JOINT RESOLUTION NO. 33

A Joint Resolution of the Senate and House of Representatives Asking That the Montana Congressional Delegation Take Action Necessary to Insure That the Federal Government Will Continue to Make Payments for Certain Persons in State Institutions.

WHEREAS, at the present time the federal government makes payments to the state of Montana for indigent Indian patients at various state institutions; and

WHEREAS, the federal government, and more particularly the Department of Health, Education, and Welfare and the Department of the Interior, Bureau of Indian Affairs, have indicated that the state will not receive these payments, amounting to approximately one-half million dollars, during the 1969-1971 biennium; and

WHEREAS, these payments have in the past contributed to more than twenty percent (20%) of the total reimbursements to the state institutions, including Warm Springs State Hospital, Boulder River School and Hospital, Galen State Hospital and Retarded Unit, Montana Children's Center, Montana Veterans' Home, and the Center for the Aged; and

WHEREAS, although payments have been made to the state for indigent Indian patients, the state is concerned with all of its citizens of whatever race, creed, or color and must take resolute steps to insure that all persons receive such care and treatment as they rightly deserve under the general welfare provisions of the state and federal constitutions; and

WHEREAS, the arbitrary discontinuance of payments contemplated by the federal government would place a heavy burden upon the state of Montana, a state with both a large Indian population and large tracts of tax exempt property owned by the federal government; and

WHEREAS, the loss of more than one-half million dollars in revenue now being used to implement the care received by all Montana

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citizens, regardless of race or color, who are residents of these institutions, would have the effect of diminishing necessary care for all Montana citizens, regardless of race or color, resident in these state institutions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana congressional delegation is urged to take such action as may be necessary to forestall and reverse the contemplated change in policy by the federal government regarding reimbursement payments to the state for patients in state institutions, which would greatly burden the state of Montana financially as well as possibly reduce the amounts and quality of health services now given to a deserving and large segment of the state population.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to each member of the Montana congressional delegation, to the Secretary of the Department of Health, Education, and Welfare, and to the Secretary of the Department of Interior.

Approved: February 24, 1969.

SENATE JOINT RESOLUTION NO. 2

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Study the Railroad Commission, Ex Officio the Public Service Commission, and Submit a Written Report to the Forty-Second Legislative Assembly.

WHEREAS, the legislature established the railroad commission in 1907; and

WHEREAS, the legislature established the public utilities commission in 1913 and declared the board of railroad commissioners to be ex officio the public service commission; and

WHEREAS, the railroad commission, ex officio public service commission, has not been reviewed extensively by the legislative assembly for a long span of years; and

WHEREAS, the legislative assembly should ever be on the alert to provide reorganized forms of government more capable of meeting changing conditions; and

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WHEREAS, it would be in the public interest of the people of the state of Montana to know if the rate making practices of this state are up-to-date and how Montana compares with other states.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a study of the organization, procedures, and operation of the railroad commission, ex officio public service commission, in this state and to include comparative data on rate making in other states.

BE IT FURTHER RESOLVED, that the legislative council is requested to submit a written report of its findings, together with recommendations and implementing legislation, if necessary, to the forty-second legislative assembly.

BE IT FURTHER RESOLVED, that the board of railroad commissioners, ex officio public service commission, provide the legislative council with any information and assistance necessary to complete this study.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the board of railroad commissioners and to the executive director of the legislative council.

Approved: January 29, 1969.

SENATE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives of the State of Montana, to the United States Congress, Urging That the Federal Government Establish a Multistate Vocational Education Center at the Glasgow Air Force Base.

WHEREAS, the Glasgow Air Force Base was constructed at a cost of more than one hundred million dollars; and

WHEREAS, this facility is no longer being used as a military installation; and

WHEREAS, the facility is too large to be operated efficiently by the state of Montana; and

WHEREAS, there is demonstrated need for additional facilities for vocational education in Montana and also in the surrounding

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states of the Upper Midwest and Northwest portions of the nation; and

WHEREAS, the Glasgow Air Force Base offers an excellent possibility for the development of a multistate vocational education center to serve the Upper Midwest and Northwest regions of the nation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly of the state of Montana urges the United States Congress to enact legislation that would establish a multistate vocational education center at the Glasgow Air Force Base utilizing all or a part of the existing physical facilities.

BE IT FURTHER RESOLVED, that the legislative assembly of Montana urges the Montana congressional delegation to support any federal legislation to accomplish this purpose.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the state of Montana, and the Honorable Arnold Olsen and the Honorable James Battin, Congressmen from the state of Montana.

Approved: February 10, 1969.

SENATE JOINT RESOLUTION NO. 4

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Recodify the Public School Laws and Laws Pertaining to the Montana University System.

WHEREAS, the 1965 Legislature appropriated $18,000 to the Legislative Council for a recodification of the public school laws contained in Title 75 of the Revised Codes of Montana 1947, and

WHEREAS, the Council was directed to recodify the school laws, but the recodification was restricted to a formal revision only involving the consolidation of duplicate provisions, elimination of conflicts, and the deletion of unnecessary and archaic language, and

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WHEREAS, although the recodification was completed, the recodified school laws contained in Senate Bill No. 50 of the 1967 Legislative Session did not pass, and

WHEREAS, unless the recodification project is reviewed in detail in the near future, changes will make the work accomplished to date obsolete, and

WHEREAS, the statutes pertaining to the Montana University System have become obsolete and badly in need of change to reflect present day needs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to prepare a formal revision of the laws pertaining to public schools contained in Title 75 of the Revised Codes of Montana 1947.

BE IT FURTHER RESOLVED, that the Legislative Council may, in its discretion also recommend changes in the substance of public school laws in addition to the formal revision of existing laws.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to prepare a revision of the laws pertaining to the Montana University System making changes as deemed necessary and desirable to provide the state with a modern, effective code for the University System.

BE IT FURTHER RESOLVED, that the Council may appoint advisory persons or groups as it deems necessary in the conduct of this study.

BE IT FURTHER RESOLVED, that the Executive Secretary of the Montana University System, Superintendent of Public Instruction, and Attorney General are requested to consult and advise the Council during the recodification of the public school laws and the laws pertaining to the Montana University System.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to prepare a formal written report and any legislation necessary to implement its recommendation for consideration by the Forty-Second Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Executive Director of the Legislative Council, Executive Secretary of the Montana Uni-

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versity System, Superintendent of Public Instruction, and the Attorney General.

Approved: January 23, 1969.

SENATE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Legislative Council Expand Its Study of Property Taxation Conducted During the 1959-60 Interim Which Was Supplemented by Its Study of Property Taxation and the Property Classification Law Conducted During the 1963-64 Interim Its Study of Taxation Conducted During the 1965-66 Interim and Its Study of the Corporation License Tax Conducted During the 1967-68 Interim and Include in This Expanded Study Conclusions Regarding the Equity of the Present Tax Structure and Any Recommendations Necessary to Make Taxation More Equitable in Montana.

WHEREAS, during the 1959-60 interim the Legislative Council conducted a study of property taxation in Montana, and during the 1963-64 interim conducted a supplemental study of property taxation and the Montana property classification law, and

WHEREAS, although substantial improvement in appraisal and assessment of properties for taxation has been made in recent years, serious and inequitable variations in assessment levels still appear to exist, and additional problems in property taxation remain to be solved, and

WHEREAS, during the 1965-66 interim the Legislative Council, with assistance from professional economists from the University of Montana, Montana State University, and the State Board of Equalization conducted a study of the Montana tax structure, and

WHEREAS, due to limitations of time and data available, this study was essentially a study of the taxation of individuals, and

WHEREAS, during the 1967-68 interim, the Council conducted a study under two resolutions, one requesting a study of the corporation license tax and the other requesting a study of all aspects of the taxation of corporations in Montana, and

WHEREAS, because of the emphasis on the Montana corporation license tax, the 1967-68 study was restricted to that tax only, excluding other aspects of the taxation of corporations in the state, and

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WHEREAS, during the conduct of these two studies, a substantial amount of data were collected and prepared in form for analysis by computers, and

WHEREAS, the data collected are essentially for yearly periods, yet data covering a period of time must be available before firm conclusions can be drawn regarding the equity of taxation in the state, and

WHEREAS, there is a need for a determination of the equity of taxation under the present tax structure of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to expand its study of taxation conducted during the 1965-66 interim and its study of the Montana corporation license tax conducted during the 1967-68 interim.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to include in this expanded study, data covering a period of several years for each tax, data on all aspects of the taxation of corporations in the state, and conclusions regarding the equity of the present tax structure together with any recommendations necessary to make taxation more equitable in Montana.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to expand its study of property taxation conducted during the 1959-60 interim and its study of property taxation and the Montana Property Classification Law conducted during the 1963-64 interim, particularly with respect to the appraisal and assessment of properties for taxation and the functioning of the Property Classification Law.

BE IT FURTHER RESOLVED, that the Legislative Council may, in its discretion, appoint any necessary advisory persons or groups in the conduct of this study and may request assistance from the State Board of Equalization and units of the Montana University System.

BE IT FURTHER RESOLVED, that the Legislative Council may retain any consultants necessary for the conduct of this study.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to submit a formal report, together with implementing legislation if necessary, to the Forty-Second Legislative Assembly.

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BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Executive Director of the Legislative Council and the Chairman of the State Board of Equalization.

Approved: February 20, 1969.

SENATE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives Creating a Commission to Study the Question of Whether or Not Graduates of Schools of Osteopathy Are or May Be Qualified to Be Permitted to Take the Examination Now Required for the Practice of Medicine in Montana.

WHEREAS, schools of osteopathy in the United States teach a full healing arts course for physicians or have become schools of medicine and the question has been raised as to the qualifications of doctors of osteopathy to be permitted to take the examination now required for the practice of medicine in Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Governor of Montana is hereby authorized and empowered to appoint a commission composed of five (5) members, two (2) of such members to be Doctors of Medicine authorized to practice in Montana, one to be a Doctor of Osteopathy, and the remaining two (2) members to represent the public. The Governor shall designate one of the public members as Chairman.

BE IT FURTHER RESOLVED, that it shall be the duty of this commission to investigate and study the quality of education and training provided in the schools or colleges of osteopathy in the United States for the purpose of determining whether or not the graduates of such schools may, or may hereafter, be qualified to take the examination now required for the issuance of a license to practice medicine in Montana and upon passing such examination to be licensed to practice medicine in Montana, and to report its finding to the Governor for transmittal to the 1971 Session of the Legislative Assembly.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to the Governor.

Approved: February 2, 1969.

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SENATE JOINT RESOLUTION NO. 10

A Joint Resolution of the Senate and House of Representatives of the State of Montana, to the Montana Congressional Delegation and the Chief of the United States Forest Service Urging the Preservation of Natural and Aesthetic Value of Clear Cut Timber Sales as Viewed From Our Highways.

WHEREAS, recent federal and state legislation emphasizes the preservation of aesthetic values of our natural surroundings, particularly as viewed from our primary and interstate highways, and

WHEREAS, this legislation is timely and pertinent to the conservation of our natural heritage which surrounds us each and every time we travel our highways, and

WHEREAS, policies and legislation which conserve and enhance our natural beauty are in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly of the state of Montana recognize the public interest involved in preserving and protecting our scenic beauty as seen from our highways, and strongly requests that the United States Forest Service, in its continued administration of the multiple use concept concerning clear cut timber sales, exercise renewed influence in assuring an irregular or natural shape to such clear cuts as opposed to some harsh images of sharp geometric patterns previously cut into our forested highway scenes, and the elimination wherever possible of existing harsh and geometric patterns caused by previously cut and forested timber areas, and

BE IT FURTHER RESOLVED, that the Secretary of State be instructed to send copies of this resolution to the Honorable Mike Mansfield and Honorable Lee Metcalf, senators from the state of Montana; to the Honorable Arnold Olsen and Honorable James Battin, congressmen from the state of Montana, and Edward Cliff, chief of the United States Forest Service, United States Department of Agriculture.

Approved: February 10, 1969.

SENATE JOINT RESOLUTION NO. 11

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Legislative Council

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Conduct a Study of Programs and Laws for the Benefit of Senior Citizens in the State of Montana.

WHEREAS, there are over sixty thousand (60,000) senior citizens or persons over the age of sixty-five (65) living within the state of Montana the greater part of which are living in a retired status, and

WHEREAS, said senior citizen population is growing at a much faster rate than the average population in the state of Montana; between 1950 and 1960 the sixty-five plus (65+) population grew twenty-eight percent (28%) while the average state population grew at only half that rate or fourteen percent (14%), and

WHEREAS, these senior citizens have given the productive years of their lives towards creating the great society of wealth and plenty which we of the present generation are enjoying, and

WHEREAS, we of the present generation should have a feeling of gratitude and responsibility towards these senior citizens, and

WHEREAS, many of the senior citizens of Montana still enjoying good health, find themselves upon retirement with little or nothing to do or any diversions to keep themselves occupied, and

WHEREAS, a communication gap is existing and deepening between the senior citizens and the present generation wherein the latter is not giving sufficient consideration or help for the increasing problems of the elderly, and

WHEREAS, the average life expectancy is becoming greater with time; the average life expectancy in 1900 was forty-seven (47) years, the average life expectancy today is seventy-five (75) years and by 2000 the average life expectancy is projected to be over one hundred (100) years all of which indicate that the senior citizens of today and the future have many years of retirement to look forward to, and

WHEREAS, many senior citizens able to work find themselves unable to do so because of mechanization and automation which eliminate many of the jobs which they are able to do, and

WHEREAS, a recent United States government survey revealed that nearly one-third (1/3) of the senior citizens of America are considered poor by government standards; a Montana senior citizens survey revealed that the average senior citizen having an income of fifteen hundred dollars ($1500) per year expended ap-

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proximately seventeen hundred fifty dollars ($1750) in the same period of time, and

WHEREAS, there are many programs to help senior citizens being provided throughout the country by both government and private agencies which information would be helpful in proposing new legislation and programs for the benefit of the senior citizens of Montana, and

WHEREAS, such a survey should be made in the following areas; specifically in the following areas: recreational and leisure time activities, counseling, adult education, transportation services, employment, information and referral services, health services, visiting and reassurance service, financial aid, etc.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a study of programs and laws for the benefit of the senior citizens in effect throughout other parts of the nation and to make a comprehensive evaluation thereof, specifically in the following areas: recreational and leisure time activities, counseling, adult education, transportation services, employment, information and referral services, health services, visiting and reassurance service, financial aid, etc., and

BE IT FURTHER RESOLVED, that the legislative council is requested to submit a written report of its findings together with recommendations and implementing legislation to the forty-second legislative assembly, and

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the executive director of the legislative council.

Approved: March 3, 1969.

SENATE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting that the Legislative Council Conduct a Study of the Feasibility and Desirability of an Administrative Procedures Act and Report its Findings to the Forty-second Legislative Assembly.

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WHEREAS, the grant of rule-making authority, which is quasi-legislative power, to administrative agencies in Montana has been broad in the past, and

WHEREAS, the grant of power to hold administrative hearings, which is quasi-judicial power, to administrative agencies in Montana has also been broad in the past, and

WHEREAS, the broad grants of quasi-legislative and quasi- judicial power to administrative agencies make it increasingly important that the rights of citizens affected by actions and decisions of administrative agencies be protected adequately, and

WHEREAS, at the present time there is wide disparity in Montana statutes granting rule-making authority and authority to hold hearings to administrative agencies, and this disparity has resulted in substantial differences in the procedures used by administrative agencies for adopting rules and holding hearings, and

WHEREAS, these differences make it extremely difficult for citizens to determine what procedures are used by a particular agency, and

WHEREAS, in some instances ambiguous language in the statutes, lack of legal counsel, or both, may have inhibited administrative agencies in taking action even though that action might have been desirable, and

WHEREAS, some administrative agencies have codified their rules and procedures, but often the codification available to citizens is obsolete thus making it extremely difficult to determine what rules and procedures are in effect at any particular time, and

WHEREAS, lacking any central filing, the only method by which current rules can be obtained is by contacting the appropriate agency of state government, and

WHEREAS, because there is no central filing of administrative rules, it is extremely difficult at the present time to determine whether or not duplication or conflicts may exist in rules adopted by different administrative agencies, and

WHEREAS, the national conference of commissioners on uniform state laws has recognized the need for standardization of administrative rule-making and hearing procedures and recommend a model act in this area, and

WHEREAS, if such an act were adopted, it might be desirable

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to exclude certain agencies that have well defined rules and hearing procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to conduct a detailed study of the statutes granting quasi-legislative and quasi-judicial powers to administrative agencies of the state.

BE IT FURTHER RESOLVED, that the legislative council is requested to determine whether it would be feasible and desirable to adopt a uniform administrative procedure act like that recommended by the national conference of commissioners on uniform state laws.

BE IT FURTHER RESOLVED, that the legislative council consult with all state agencies which might be affected by an administrative procedure statute and, based upon the information obtained, consider the feasibility and desirability of excluding those agencies which have well defined rule-making and hearing procedures established.

BE IT FURTHER RESOLVED, that the legislative council may appoint advisory persons and groups as it deems necessary and advisable, and may also consider contracting with the university of Montana law school for the basic research necessary prior to the formulation of conclusions and recommendations.

BE IT FURTHER RESOLVED, that the legislative council is requested to prepare a written report, together with any necessary implementing legislation, for consideration by the forty-second legislative assembly.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send copies of this resolution to the executive director of the legislative council and to all members of the Montana commission on uniform state laws.

Approved: February 25, 1969.

SENATE JOINT RESOLUTION NO. 13

A Joint Resolution of the Senate and House of Representatives Requesting the Legislative Council in Consultation with Recognized Public Health Authorities to Conduct a Study of the Laws

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Relating to the Dairy Industry in Montana, with a View to the Feasibility and Desirability of Consolidating Under One State Agency the Present Functions of the Several Montana Agencies that now Regulate the Montana Dairy Industry, Including the Department of Agriculture, Livestock Sanitary Board, State Board of Health, State Board of Food Distributors, and Milk Control Board, and Report its Findings and Recommendations, Together with any Necessary Legislation, to the Forty-second Legislative Assembly.

WHEREAS, at present at least three (3) federal and five (5) state agencies carry out control procedures of dairy industry, and

WHEREAS, dairy industry operators feel there may be duplication of regulatory control that may be expensive, confusing, time consuming and unnecessary, and

WHEREAS, dairy industry operators are oftentimes confused in knowing which state agency is responsible for interpretation or enforcement of laws pertaining to milk, milk products and related or imitation milk or milk and dairy products, and

WHEREAS, directors of these state agencies oftentimes need to contact the attorney general to determine which agency is responsible for enforcement or interpretation of specific laws, rules or regulations as apply to a particular milk or dairy product, or imitation of same, and

WHEREAS, joint action or cooperation between federal and several state agencies in intrastate and interstate regulations governing production, processing, manufacturing, labeling and marketing of milk, and dairy products; imitation milk, and dairy products, may make this cooperation with federal agencies difficult.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is hereby requested to conduct a study of the laws regulating the dairy industry in Montana to determine if it is feasible and desirable to combine under one (1) state agency the functions of the several agencies that now regulate the production, processing, labeling and marketing of milk and milk products in Montana.

BE IT FURTHER RESOLVED, that the legislative council is requested to submit a written report of its findings, together with its recommendations to the forty-second legislative assembly.

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BE IT FURTHER RESOLVED, that the secretary of state of Montana is directed to send copies of this resolution to the executive director of the legislative council, the department of agriculture, the livestock sanitary board, the state board of health, the state board of food distributors, and the milk control board.

Approved: February 20, 1969.

SENATE JOINT RESOLUTION NO. 14

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, Urging Immediate Funds Be Allocated for the Enlargement of the Veterans Administration Hospital at Fort Harrison, Montana.

WHEREAS, the veteran population of the state of Montana has increased in excess of ten thousand veterans in the past few years, and

WHEREAS, the continual build-up of the Vietnam War indicates further increases in Montana's veteran population, and

WHEREAS, the 160-bed hospital facility presently located at Fort Harrison, Montana, is proving woefully inadequate and causing an increasing waiting list and extended periods of time in waiting.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the State of Montana urgently requests the Congress of the United States to provide adequate funds to increase the present facility at Fort Harrison, Montana, to accommodate a minimum of one hundred (100) additional beds, and

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the President of the United States, to each member of Montana's Congressional delegation, and to the Administrator of Veterans Affairs, Washington, D. C.

Approved: February 10, 1969.

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SENATE JOINT RESOLUTION NO. 15

A Joint Resolution of the Senate and House of Representatives of the State of Montana, Asking that the President and Congress Expand the Aid Now Given by the Federal Government, Specifically to the Navajo and Hopi Indians, Under Public Law 474, Eighty-first Congress (64 Stat. 47; 25 USC, 639) to All Recognized Indian Tribes and Nations.

WHEREAS, the Federal government, under the authority of Public Law 474, Eighty-first Congress, passed April 19, 1950 (64 Stat. 47;25 USC, 639) which stated that beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each state an amount in addition to the amounts prescribed to be paid to such state under such sections equal to eighty (80) percentum, the total amounts of contributions by the state toward expenditures during a preceding quarter by the state, under the state plans approved under the Social Security Act for old age assistance, aid to dependent children, and aid to the needy blind, to Navajo and Hopi Indians, residing within the boundaries of the state who have residence on reservations or on alloted or trust lands, with respect to whom payments are made to the state by the United States under Sections 3 (a), 403 (a), and 1003 (a), respectively, of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such section, and

WHEREAS, this statute is very helpful to the Navajo and Hopi Indians, but is very discriminatory in that it does not provide similar aid to other Indian tribes and nations, nor does it include aid to permanently and totally disabled nor medical assistance, to any of the Indian tribes and nations, and

WHEREAS, it specifically does not provide aid to such Indian tribes or nations residing in the state of Montana, and

WHEREAS, Congress should take the necessary steps to include all recognized Indian tribes and nations for such aid.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the members of the Forty-first Legislative Assembly of the State of Montana ask the National Administration and the Congress of the United States to amend said Act to include all recognized Indian tribes and nations, and to expand said aid to

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include aid to the permanently and totally disabled and medical assistance.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this Resolution to the President of the United States, to each member of the Montana Congressional Delegation, to the Bureau of Indian Affairs, and to the Secretary of Health, Education and Welfare.

Approved: March 3, 1969.

SENATE JOINT RESOLUTION NO. 17

A Joint Resolution of the Senate and House of Representatives to the Montana Congressional Delegation Stating That Montana, North Dakota, South Dakota, and Wyoming are now Doing Active Planning for the Development of Water and Related Resources in Order to Achieve Full Resource Potential, That Additional Time is Needed to Complete This Planning and Therefore Until Planning is Completed in the Four States of Montana, North Dakota, South Dakota, and Wyoming There Should be no Interstate-Interbasin Transfer of Water From These Four States.

WHEREAS, the upper Missouri River Basin States of Montana, North Dakota, South Dakota, and Wyoming are now doing active planning for development and use of the waters of the Missouri River and its tributaries; and

WHEREAS, task forces are preparing the Missouri Basin Comprehensive Planning Report based on full resource development potential and not limited to mere projections of historical trends, economic and otherwise; and

WHEREAS, additional time is needed for collection of more complete evidence to substantiate the abovementioned revised basis for appraising the needs of the upper Missouri River Basin States (which needs will guide state planning); and

WHEREAS, the said Missouri River Basin States have, by the O'Mahoney-Millikin Amendment to the Flood Control Act of 1944 (Sec. 1 (b), P. L. 534, 78th Congress), been granted preference in the use of Missouri River Basin Waters, which must include the preparation of plans to meet present and future needs; and

WHEREAS, plans in the four state area should consider other

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state and national, aesthetic, and environmental objectives which provide for the optimum utilization of Missouri River Basin waters; and

WHEREAS, there now exists a proposal which calls for the interstate diversion of water from the Missouri River Basin to states not partially or totally located in the Basin before optimum water resources potential in said upper Missouri River Basin States have been appraised or plans made.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislature of the state of Montana does hereby go on record as demanding its rights, under the O'Mahoney-Millikin Amendment to the Flood Control Act of 1944, to Missouri Basin water and use of that water for other purposes.

BE IT FURTHER RESOLVED that the legislature of the state of Montana does declare that its rights to Missouri Basin water would be violated by any and all diversions of water out of the states of the Missouri River Basin for any use whatsoever.

BE IT FURTHER RESOLVED that the legislature of the state of Montana does hereby remind the Congress of the United States that plans of this state will, when completed, be based on future water needs for full realization of resources potentials within the states of Montana, North Dakota, South Dakota, and Wyoming and not on historical projection, and that the state of Montana will, under the uses stated in the O'Mahoney-Millikin Amendment, and for other purposes demand such quantities of water as will be needed in support of the state water resources plan and to assure optimum water supplies for future economic security and general welfare of its citizens as part of the environment of the lives of the people in this great nation.

BE IT FURTHER RESOLVED that the legislature of the state of Montana request that no plans be initiated or implemented for any interstate-interbasin diversion of water until such times as the four states of Montana, North Dakota, South Dakota, and Wyoming have completed their state water resources plan, and a joint evaluation of such plans is made.

BE IT FURTHER RESOLVED that the Secretary of State is directed to send a copy of the resolution to each member of the Montana Congressional delegation.

Approved: February 21, 1969.

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SENATE JOINT RESOLUTION NO. 18

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Montana Water Resources Board Continue to Keep the Legislative Council Informed of Any Plans for the Allocation of Water to Be Used to Develop Coal Resources of the State and Requesting the Legislative Council to Compile Any Data Necessary to Keep Informed on the Use of Water for the Development of Coal Resources, and Indicating That Montana Is Interested in Maintaining Legislative Liaison With North Dakota, South Dakota, and Wyoming to Promote Cooperation in Maintaining Our Pure Environment.

WHEREAS, the future growth and prosperity of the state of Montana are vitally dependent upon the prudent management, wise use, and careful safeguarding of the available water supply of this state; and

WHEREAS, the development of eastern Montana coal deposits is concerned not only with the use of water and coal resources, but is indeed an economic development which might be of major importance to the entire eastern Montana area and the state as a whole; and

WHEREAS, coal based industries are now considering the development of the vast coal resources of eastern Montana; and

WHEREAS, the Montana Water Resources Board has done a commendable job of informing the legislature during the past interim concerning development of necessary water to develop these coal resources; and

WHEREAS, the Montana Water Resources Board has been most cooperative in keeping the Legislative Council informed of these developments during the past interim; and

WHEREAS, as elected representatives of the people, the members of the Legislative Assembly have a responsibility to keep informed of all current plans to develop the vast coal resources of eastern Montana; and

WHEREAS, the Legislative Assembly has a duty to assist in this development as may be deemed feasible and desirable; and

WHEREAS, competition for coal development with our sister states must not blind us to common interests in establishing early safeguards for maintaining our pure environment. The state must work to create and maintain legislative liaison with North Dakota, South Dakota, and Wyoming, hopeful that through cooperative ef-

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forts, each state will operate under similar laws to assure that water and air crossing the state borders will be maintained at purest equal value.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Water Resources Board is requested to continue to keep the Legislative Council informed of progress on the development of the vast coal resources of eastern Montana and of any agreements contemplated which might affect water to be used for development from the drainage areas of the Yellowstone, Big Horn, Little Big Horn, Tongue, Powder, and Musselshell Rivers.

BE IT FURTHER RESOLVED, that the Montana Water Resources Board is requested to keep the Legislative Council informed of any basis of priorities upon which applications for water use from the above drainages shall be judged.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to assist the Montana Water Resources Board in any manner it deems advisable in the compilation of data on the use of water to develop coal resources.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Montana Water Resources Board, the Montana Legislative Council, the North Dakota Legislative Research Committee, the South Dakota Legislative Research Council, and the Wyoming Secretary of the Senate and Chief Clerk of the House of Representatives.

Approved: February 25, 1969.

SENATE JOINT RESOLUTION NO. 19

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, Urging the Congress to Provide Immediate Funds for the Construction of a Veterans Administration Domiciliary to Be Located at the Fort Harrison, Montana, Reservation Adjacent to the Existing Veterans Administration Hospital Facility.

WHEREAS, many of Montana's older veterans are being discharged with maximum hospital benefits, making them ineligible for

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further care and treatment in our present Veterans Administration hospitals at Fort Harrison and Miles City, Montana, and

WHEREAS, many Montana veterans are attempting to survive on a meager Veterans Administration pension, which is inadequate to purchase housing in the various Montana rest homes, and

WHEREAS, the average age of World War II veterans is reaching the point where a tremendous increase in requests for the use of Veterans Administration domiciliary facilities can be anticipated, and

WHEREAS, the closet domiciliaries for Montana's veterans are located in South Dakota and Oregon, and

WHEREAS, these domiciliaries are presently establishing waiting lists for admissions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the State of Montana makes an urgent request to the Congress of the United States to immediately provide funds for the construction of a Veterans Administration domiciliary adjacent to the Veterans Administration hospital facilities at Fort Harrison, Montana.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the President of the United States, to each member of Montana's Congressional Delegation, and to the Administrator of Veterans Affairs, Washington, D.C.

Approved: February 21, 1969.

SENATE JOINT RESOLUTION NO. 20

A Joint Resolution of the Senate ond House of Representatives of the State of Montana, to the Governor of the State of Montana, Requesting Creation of a Commission to Study the District Courts as to Number of Judges and Number of Judicial Districts and Boundaries Thereof.

WHEREAS, the population of the state of Montana has increased and modes of communication and transportation have changed since the judicial districts were defined and the number of district judges was established:

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NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the governor of Montana is hereby requested to appoint a commission of five (5) members, one of whom shall be either a supreme court justice or a district court judge. The governor shall designate one of the members as chairman.

BE IT FURTHER RESOLVED, that this commission investigate and study the number of district court judges and the present boundaries of the judicial districts to determine the advisability of increasing or decreasing the number of district court judges and of increasing or decreasing the number of judicial districts and modifying the boundaries thereof, and report its finding to the governor for transmittal to the 1971 session of the legislative assembly.

BE IT FURTHER RESOLVED, that the commission, with the approval of the governor, shall be authorized to employ such assistants as it feels necessary for its work.

BE IT FURTHER RESOLVED, that the secretary of state is directed to send a copy of this resolution to the governor.

Approved: February 20, 1969.

SENATE JOINT RESOLUTION NO. 22

A Joint Resolution of the Senate and House of Representatives Requesting the Forty-first Legislative Assembly to Designate a Bi-Partisan Committee for the Purpose of Obtaining an Adequate Field Training Site for the 163rd Armored Cavalry Regiment of the Montana National Guard.

WHEREAS, the primary mission of the 163rd Armored Cavalry Regiment is training and to be prepared for rapid deployment to a combat area in time of war, and

WHEREAS, it is the responsibility of the State of Montana to provide for training facilities which will permit the regiment to progress through a training program designed to bring them to the highest level of combat readiness, and

WHEREAS, it is desirable from an economic and practical viewpoint to have the 163rd Armored Cavalry Regiment of the Montana National Guard conduct the annual field training exercises within the territorial boundaries of Montana, and

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WHEREAS, the training requirements for the army national guard are directed by the United States Continental Army Command, and

WHEREAS, these requirements must be satisfied in order to retain Federal recognition in the form of financial assistance to the 163rd Armored Cavalry Regiment, and

WHEREAS, present training sites available to the 163rd Armored Cavalry unit as reported by professional evaluating teams of the regular army are not adequate for the advanced unit training necessary to meet the mobilization readiness of the Department of the Army, and

WHEREAS, a thorough and comprehensive study by the Montana National Guard covering a period of several years and employing the professional military knowledge and expertise of the senior Montana National Guard commanders and staff resulting in a recognition of the inadequacies of the present field training site, and

WHEREAS, sufficient government owned land is available in northeast Montana upon which an adequate training facility could be built and used for training by the 163rd Armored Cavalry Regiment thereby assuring the continuance of this unit in its same place in Montana history.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Forty-First Legislative Assembly create a bi-partisan committee composed of members of both the House and the Senate, to study the possibility of obtaining an adequate field training site for the 163rd Armored Cavalry Regiment within the territorial boundaries of Montana.

BE IT FURTHER RESOLVED, that the committee be instructed to pay particular attention to obtaining a site south of highway number two (2) from Malta to Glasgow on the north, and the Missouri River on the south. Such instruction should not be construed as a limitation on the scope of the committee's study.

BE IT FURTHER RESOLVED, that the committee shall be composed of one (1) Democrat and one (1) Republican from the House of Representatives to be appointed by the Speaker, and one (1) Democrat and one (1) Republican from the Senate to be appointed by the Committee on Committees.

BE IT FURTHER RESOLVED, that the committee shall prepare

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a written report, together with recommendations and any necessary implementing legislation, to the Forty-Second Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Governor and to the Adjutant General.

Approved: February 26, 1969.

SENATE JOINT RESOLUTION NO. 23

A Joint Resolution of the Senate and House of Representatives Asking That the State Entomologist Take Resolute Steps to Reduce the Danger of Diseases Spread by Mosquitos and Asking That State Agencies Assist in This Effort.

WHEREAS, mosquito control in Montana has not been effective in the past and the danger of diseases spread by mosquitos is increasing particularly in the Milk River drainage of northern Montana; and

WHEREAS, the problem has been recognized by the Federal Department of Health, Education, and Welfare and that department has reported that in the Havre to Glasgow area WEE-virus was isolated from five (5) pools and this was the highest WEE-virus infection rate obtained by the Rocky Mountain Laboratory; and

WHEREAS, the current report of the state entomologist does not recognize the danger from mosquitos specifically.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly requests that the state entomologist take resolute steps to reduce the dangers from diseases carried by mosquitos through mosquito control measures particularly in the Milk River drainage of northern Montana.

BE IT FURTHER RESOLVED, that all state agencies are requested to cooperate with the state entomologist in this effort and assist him to the extent possible.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send copies of this resolution to the president of Montana State University and to the state entomologist.

Approved: March 3, 1969.

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SENATE JOINT RESOLUTION NO. 26

A Joint Resolution of the Senate and House of Representatives Asking That the Legislative Council Conduct a Study of the Feasibility of Establishing a Self-Insurance Fund for State-Owned Property.

WHEREAS, at the present time the state of Montana expends more than four hundred thousand dollars ($400,000) for insurance on state-owned property each biennium, or approximately two hundred thousand dollars ($200,000) each year, and

WHEREAS, over the past eleven (11) years actual losses of state-owned property have averaged substantially less than the insurance premium, and

WHEREAS, some states have established a self-insurance fund for state-owned property which has resulted in substantial savings to those states, and

WHEREAS, it might be both feasible and desirable for the state of Montana to establish a self-insurance fund.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to conduct a study of the feasibility and desirability of establishing a self-insurance fund for state-owned property.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to report its findings, together with recommendations and any necessary implementing legislation, to the Forty-Second Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send a copy of this resolution to the Legislative Council.

Approved: February 25, 1969.

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EXTRAORDINARY SESSION

☆

March 10, 1969 to March 19, 1969

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CHAPTER 1

An Act to Submit to the Qualified Electors of Montana an Amendment to the Montana Constitution Adding a New Section to Provide That All Executive and Administrative Offices, Boards, Bureaus, Commissions, Agencies and Instrumentalities, Except the Office of Governor, Lieutenant Governor, Secretary of the State, Attorney General, State Treasurer, State Auditor, and Superintendent of Public Instruction, Shall Be Allocated by Law Among Not More Than Twenty Departments No Later Than July 1, 1973; to Provide That Subsequently All New Powers or Functions Shall Be Assigned to Provide an Orderly Administrative Organization; Providing for Temporary Commissions in Addition to the Twenty Principal Departments.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section in the Montana constitution which reads as follows:

Proposed constitutional amendment that state agencies be allocated to 20 departments by 1973—exceptions.

"Section ..... . All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor, lieutenant governor, secretary of the state, attorney general, state treasurer, state auditor, and superintendent of public instruction, shall be allocated by law among and within not more than twenty (20) departments by no later than July 1, 1973. Subsequently, all new powers or functions shall be assigned to departments, divisions, sections, or units in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department."

Section 2. When this amendment is submitted to the electors of the state of Montana, there shall be printed on the ballot the full title and Section 1 of this act and the following words:

Ballot form.

"☐ For the above amendment.

☐ Against the above amendment."

Approved: March 17, 1969.

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CHAPTER 2

An Act to Appropriate $78,200 From the General Fund for the Biennium Beginning July 1, 1969, to the Bureau of Business and Economic Research to Perform a Study of Fiscal Problems as They Affect Local Government, and the State of Montana; and Further to Create an Interim Committee on Fiscal Affairs to Direct, Advise and Counsel the Bureau in the Performance of This Study.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation for bureau of business and economic research.

Section 1. There is hereby appropriated from the general fund for the biennium beginning July 1, 1969, $78,200 to the Bureau of Business and Economic Research, university of Montana to enable the bureau to conduct a study of the fiscal problems as they affect local government and the state of Montana.

Intent.

Section 2. It is the intent of the legislature of the state of Montana that this study will be concerned with the fiscal problems of local government and state government in Montana. Its purposes will be to provide factual and analytical material that clarifies what the Montana fiscal system is and the fiscal problems faced. It will not provide recommendations regarding the types of taxation the state should use. The study will develop useful data and analytical material upon which legislators and the governor and other political leaders can base their fiscal planning.

Study to consist of.

Section 3. The study shall consist of, but not be limited to:

(1) Survey of government revenue and expenditure in Montana and federal-state-local fiscal interrelationship and shall consist of:

(a) major sources of state revenue:

(i) tax revenue

(ii) licenses, fees, and charges

(iii) federal grants-in-aid

(iv) local-to-state payments

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(b) local government revenue:

(i) tax revenue

(ii) licenses, fees, and charges

(iii) federal grants-in-aid

(iv) state-to-local payments

(c) state expenditures analysis

(d) local expenditures analysis

(e) projections

(2) Study of the major elements of federal, state and local taxes in the United States and Montana. The main concern will be stability, growth, burden of taxes on individuals and household units, and the effect of certain taxes on businesses.

Interim committee—members.

Section 4. (1) There is hereby created an interim committee on fiscal affairs of the forty-first legislative assembly which shall consist of the governor and four (4) members of the house of representatives who shall be appointed by the speaker of the house of representatives, no more than two (2) of whom shall be of the same political party, and four (4) members of the state senate who shall be appointed by the committee on committees of the state senate, no more than two (2) of whom shall be of the same political party. Legislative members of the committee shall be appointed not later than the last day of the extraordinary session of the forty-first legislative assembly. Any vacancy on the interim committee on fiscal affairs occurring when the legislature is not in session may be filled by the selection of another member of the legislature, by the remaining members of the committee.

Duty of interim committee.

(2) The interim committee on fiscal affairs shall provide direction, guidance and counsel to the bureau of business and economic research in their performance of the study specified by this act. The committee shall meet at least four (4) times a year, and their meeting shall be held throughout the state of Montana. The governor shall be chairman of the committee.

Expenses.

(3) A member of the committee shall receive reimbursement for necessary and actual expenses incurred in his official service on the committee.

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Report.

(4) The committee shall prepare a report of its activities for the forty-second legislative assembly.

Approved: March 17, 1969.

CHAPTER 3

An Act Relating to the School Foundation Program; Providing for Changes in Financial Schedules for the Maximum General Fund Budgets for School Districts, County High Schools, and Increasing the Basic County Elementary and High School Levies; Amending Sections 75-1713.1, 75-4518.1, 75-3706, 75-3618, and 75-4516.1, R.C.M., 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1713.1, R.C.M., 1947, is amended to read as follows:

Changes in budget by budget board when in excess of foundation program—restrictions on budgets.

"75-1713.1. **Changes in budget by budget board when in excess of foundation program—restrictions on budgets.** If the total amount of the proposed elementary general fund expenses in the preliminary budget of any district shall exceed the foundation program of such district, the budget board shall, in the manner and subject to the limitations prescribed by section 75-1713, reduce such proposed general fund expenses to a total equal to said foundation program unless the board of trustees of said district shall establish to the satisfaction of the budget board that special circumstances exist which justify such additional expenses, and in such event a statement of the reasons for the allowance of such additional expenses shall be attached to said budget and signed by the chairman of the budget board, but the entire amount of such excess expense over the foundation program shall be paid solely from levies upon the property in such district and shall not in any manner increase the amounts to be apportioned hereunder from the county common school levy or from the moneys available for state equalization aid; and provided, that, except in the case of the existence of the emergencies specified in section 75-1716, the entire amount of such additional expense over the foundation program plus the foundation program to be included in the budget of any district shall not be

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greater than the maximum amounts in accordance with the following schedules: provided that nothing herein contained shall be construed as preventing the voting of an additional levy in accordance with the general school laws pertaining to the voting of additional levies.

Elementary schools.

Elementary Schools

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be *seventy-two hundred forty-eight dollars ($7,248),* if said school is approved *as an* isolated school.

(2) For schools with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be *seventy-two hundred forty-eight dollars ($7,248)* plus *two hundred fourteen ($214)* per pupil on the basis of the average number belonging over nine (9).

(3) For schools with an ANB of eighteen (18) pupils and employing one (1) teacher, the maximum shall be *ninety-one hundred seventy dollars ($9,170)* plus *eighty-five dollars ($85)* per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over twenty-five (25).

(4) For schools with an ANB of eighteen (18) pupils and employing two (2) full-time teachers, the maximum shall be *sixteen thousand four hundred seventy ($16,470)* plus *eighty-five dollars ($85)* per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over fifty (50).

(5) For schols having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

For a school having an ANB of more than forty (40) and employing a minimum of three (3) teachers, the maximum of *five hundred eighty dollars and twenty cents ($580.20)* shall be decreased at the rate of *forty-three cents ($.43)* for each additional pupil until the total number (ANB) shall have reached a total of one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, the maximum of *five hundred fifty-four dollars ($554)* shall be decreased at the rate of *fifty-one cents ($.51)* for each additional pupil until

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the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed *four hundred fifty-one dollars and thirty-five cents ($451.35)* for each pupil; provided that the maximum per pupil, for all pupils, ANB, shall figure on the basis of the amount allowed herein on account of the last eligible pupil, ANB, and provided further than all schools operated within the incorporated limits of a city or town shall be treated as a school unit for the purpose of this schedule.

The maximum per pupil for all pupils (ANB) and for all schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB."

Amending clause.

Section 2. Section 75-4518.1, R.C.M., 1947, is amended to read as follows:

Reduction in budget by budget board—allowance of additional expenses over foundation program.

"75-4518.1. **Reduction in budget by budget board—allowance of additional expenses over foundation program.** If the total amount of the proposed general fund expenses in the preliminary budget of any district or county high school shall exceed the foundation program thereof, the budget board shall, in the manner provided by section 75-4518, reduce such proposed general fund expenses to a total equal to said foundation program unless the board of trustees of said district or county high school shall establish to the satisfaction of the budget board that special circumstances exist which justify such additional expenses, and in such event a statement of the reasons for the allowance of such additional expenses shall be attached to said budget and signed by the chairman of the budget board, but the allowance of such excess expense over the foundation program shall not in any manner increase the amounts of state equalization aid to be apportioned hereunder; and provided that, except in the case of the existence of the emergencies specified in section 75-4521, the entire amount of such additional expense over the foundation program to be included in any high school budget including any reserve fund, not to exceed thirty-five per cent (35%) of the amount appropriated in the final and approved budget for the then current school year, for the purpose of maintaining the elementary and high school of the district from July 1 to November 30 of the next succeeding year, plus the foun-

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dation program shall not be greater than the maximum amounts in accordance with the following schedules, provided that nothing herein contained shall be construed as preventing the voting of an additional levy in accordance with the general school laws pertaining to the voting of additional levies.

High schools.

High Schools

(1) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be *thirty-five thousand four hundred forty dollars ($35,440).*

(2) For a secondary school having an ANB of more than twenty-four (24) pupils, the maximum *fourteen hundred seventy-six dollars and thirty-five cents ($1,476.35)* shall be decreased at the rate of *nine dollars and seventy-five cents ($9.75)* for each additional pupil until the ANB shall have reached a total of forty (40) such pupils. For a school having an ANB of more than forty (40) pupils, the maximum of *thirteen hundred twenty dollars and thirty-five cents ($1,320.35)* shall be decreased at the rate of *six dollars and sixty cents ($6.60)* for each additional pupil until the ANB shall have reached one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, a maximum of *nine hundred twenty-three dollars and seventy-five cents ($923.75)* shall be decreased at the rate of *two dollars and fifteen cents ($2.15)* for each additional pupil until the ANB shall have reached two hundred (200) pupils. For a school having an ANB of more than two hundred (200) pupils, the maximum of *seven hundred eight dollars and seventy-five cents ($708.75)* shall be decreased by *forty-nine cents ($.49)* for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum of *six hundred sixty dollars ($660)* shall be decreased at the rate of *twelve and one-half cents ($.125)* until the ANB shall have reached *six hundred (600) pupils. For a school having an ANB over six hundred (600) pupils, the maximum shall not exceed six hundred twenty-two dollars and fifty cents ($622.50)* per pupil.

The maximum per pupil for all pupils (ANB) and for all schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB.

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In computing the amount for the foundation program and the maximum program only junior high schools which have been approved and accredited by the state board of education shall be considered a part of the secondary enrollment."

Amending clause.

Section 3. Section 75-3706, R.C.M., 1947, is amended to read as follows:

Common school levy.

"75-3706. **(1202) Common school levy.** In addition to the provisions for the support of the common schools, hereinbefore provided, it shall be the duty of the county commissioners of each county in the state to levy an annual basic tax of *twenty-five (25)* mills on the dollar of the taxable value of all taxable property within the county, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes, which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected; provided that if a basic levy of less than *twenty-five (25)* mills should be sufficient to meet the total of the approved budgets of all school districts within the county, then such lesser basic levy shall be made, but no school district within a county levying less than the basic *twenty-five (25)* mills shall receive any apportionment of state equalization aid; it shall be the duty of the board of county commissioners to levy, if necessary, an additional tax in such number of mills on the taxable value of all taxable property within the county as shall be required to provide the foundation program for all school districts within the county. The county superintendent shall apportion the proceeds of such additional tax levy to each school district within the county after apportionment of the basic county common school levy as provided in section 75-3618 and the state equalization aid as provided in section 75-3619.

For the further support of the common schools, there shall also be set apart by the county treasurer all moneys paid into the county treasury arising from all fines for violations of law, unless otherwise specified by law. Such moneys shall be forthwith paid into the county treasury by the officer receiving the same, and be added to the yearly school fund raised by taxation."

Amending clause.

Section 4. Section 75-3618, R.C.M., 1947, is amended to read as follows:

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"75-3618. **Distribution of money available to districts—formula for apportionment of county funds.** After the deduction of transportation reimbursements provided by law, the proceeds of the basic county *twenty-five (25)* mill common school levy as provided for in section 75-3706 and the proceeds of the basic special tax for high schools, as provided for in section 75-4516.1 shall each be separately distributed by the county superintendent to the respective districts in the county, and the county high school if there be one, in proportion to their needs under the foundation financial program. In all cases in which the proceeds of such basic county levy when added to interest and income moneys available to the respective districts, and other funds which must be used in support of the foundation financial program are insufficient to finance the foundation financial program, the proceeds of the basic county common school levy and the proceeds of the basic county special tax for high schools shall each be separately distributed in accordance with the following procedure; provided, however, that cash balances to the credit of the district at the end of the school year, after authorized reserves have been subtracted as well as outstanding warrants, shall be used by the district to reduce the levies on the district for the general fund after county and state equalization aid have been received:

Distribution of money available to districts—formula for apportionment of county funds.

Use of cash balances at end of year.

1. Determine the ratio that the total funds available to all districts in the county in support of the foundation program (including proceeds of the basic county levy) bears to the total costs of the foundation program for all such districts.

2. Determine the ratio that the total funds available to each district in support of the foundation program (excluding all proceeds of the basic county levy) bears to the cost of the foundation program of each such district.

3. Districts in which the ratio as determined in (2) above exceeds the ratio in (1) above shall not be entitled to distribution of such county funds but shall be excluded from further consideration under this section.

4. After elimination of districts referred to in (3) above, determine the ratio that the total funds available to all remaining districts in the county in support of the foundation program (including proceeds of the basic county levy) bears to the total cost of the foundation

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program of all such remaining districts. Each remaining district shall then be entitled to distribution of funds from the basic county levy, which, when added to all other funds available to such district in support of the foundation program shall be sufficient to finance such proportionate part of its foundation program.

5. No district school shall be deprived of its needful share of either county levy by reason of it being nonaccredited.

6. No territory situated within the county shall be excluded from the distribution of the school funds of the county solely because such territory lies within the boundaries of a joint district."

Amending clause.

Section 5. Section 75-4516.1, R.C.M., 1947, is amended to read as follows:

Levy of taxes—basic high school levy.

"75-4516.1. **Levy of Taxes.** (1) **Basic high school levy.** It shall be the duty of the county commissioners of each county in the state to levy an annual basic special tax for high schools of *fifteen (15)* mills on the dollar of the taxable value of all taxable property within the county, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes and which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected; provided that if a basic levy of less than *fifteen (15)* mills should be sufficient to meet the total of the approved budgets of all school districts and county high schools within the county, then such lesser basic levy shall be made.

No county levying less than the adjusted basic high school levy shall receive any apportionment of state equalization aid.

Additional high school levy.

(2) **Additional high school levy.** The county commissioners shall, if necessary, levy an additional tax in such number of mills on the taxable value of all taxable property within the county as shall be required to provide the foundation program for all school districts and county high schools within the county. The county superintendent shall apportion the proceeds of such additional tax levy to each school district and county high school within the county after apportionment of the basic

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special tax for high schools as provided in section 75-3618 and the state equalization aid as provided in section 75-3619.

(3) **Permissive high school levy.** If the revenues for the operation and mainteniance of any high school, including the amount apportionable from said basic special tax for high schools and the amount, if any, produced by said additional high school tax, shall be less than the foundation program of such high school and the approved additions thereto included in its budget, within the limitations hereinbefore specified, it shall be the further duty of the board of county commissioners to fix and levy a tax, in such number of mills as will produce the amount shown by the final budget to be raised by tax levy plus federal reimbursements in lieu of taxes, which tax shall, in the case of a county high school not located within a building district, be levied upon all property in the county, excepting the property of any district supporting a district high school, and shall, in the case of a county high school located within a high school building district, be levied upon all property in such building district and which tax shall, in the case of a district high school not located within a building district, be levied upon all property within the school district, and shall, in the case of a district high school located within a building district, be levied upon all property in such building district, provided, however, that such last mentioned additional tax shall not, in any event, be used to raise funds in excess of the maximum budgets as specified in section 75-4518.1 when considered with all other sources of revenues, unless approved by a vote of the taxpaying electors.''

Permissive high school levy.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 7. This act is effective immediately upon passage and approval.

Effective immediately.

Approved: March 19, 1969.

CHAPTER 4

An Act to Amend Sections 87-103, 87-104, 87-106 and 87-109, R.C.M., 1947, Which Sections Are a Part of the

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Unemployment Compensation Law, by Providing for New Bracketing in the Determination of High-Quarter Wages in the Benefit Schedule and Increasing Minimum Qualifying Wages; Increasing the Maximum Weekly Benefit Amount; Reducing Duration by the Number of Weeks Equal to the Number of Weeks of Disqualification; Increasing the Maximum Employer Tax Rate From 2.7 Per Centum to 3.1 Per Centum by Adding New Individual Tax Rates of 2.9 Per Centum and 3.1 Per Centum; Increasing the Average Annual Employer Tax Rate on Taxable Payrolls from 1.5 Per Centum to 1.6 Per Centum; Requiring Notice to Employer of Benefit Claim Before Charging His Account; Deleting Language No Longer Applicable; and Providing Effective Dates.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 87-103, R.C.M. 1947, is amended to read as follows:

Benefits—payment of benefits.

"87-103. **Benefits.** (a) **Payment of benefits.** *B*enefits *are* payable from the fund to any individual who is or becomes unemployed and eligible for benefits as is herein prescribed; provided, however, that wages earned for services performed as an employee representative as defined in the Railroad Unemployment Insurance Act (52 Stat. 1094), or for services performed for an employer, as defined in said act, shall not be included for the purposes of determining eligibility or weekly benefit amount under this act. All benefits shall be paid through public employment offices in the state of Montana, or other agencies designated by the commission, in accordance with such rules and regulations as the commission may prescribe.

Weekly benefit amount.

(b) **Weekly benefit amount.** Except as provided in subsection (c), an insured worker's weekly benefit amount shall be the amount in column B of the benefit schedule of this subsection on the line on which in column A there appears his total wages paid for insured work in that quarter of his base period in which his wages were highest: (designated in the benefit schedule as 'High-Quarter Wages').

Benefit Schedule

Weekly benefit amount figures from weighted schedule of high-quarter wages and qualifying wages computed as

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one and one-half times high-quarter wages and maximum potential benefits in benefit year.

High-Quarter Wages (Column A)	Weekly Benefit Amount (Column B)	Minimum Qualifying Wages (Column C)
$ 220.00- 309.99	$13.00	$ 420.00
310.00- 339.99	14.00	465.00
340.00- 369.99	15.00	510.00
370.00- 399.99	16.00	555.00
400.00- 429.99	17.00	600.00
430.00- 459.99	18.00	645.00
460.00- 489.99	19.00	690.00
490.00- 519.99	20.00	735.00
520.00- 549.99	21.00	780.00
550.00- 579.99	22.00	825.00
580.00- 609.99	23.00	870.00
610.00- 639.99	24.00	915.00
640.00- 669.99	25.00	960.00
670.00- 699.99	26.00	1,005.00
700.00- 729.99	27.00	1,050.00
730.00- 759.99	28.00	1,095.00
760.00- 789.99	29.00	1,140.00
790.00- 819.99	30.00	1,185.00
820.00- 849.99	31.00	1,230.00
850.00- 879.99	32.00	1,275.00
880.00- 909.99	33.00	1,320.00
910.00- 939.99	34.00	1,365.00
940.00- 969.99	35.00	1,410.00
970.00- 999.99	36.00	1,455.00
1,000.00-1,029.99	37.00	1,500.00
1,030.00-1,059.99	38.00	1,545.00
1,060.00-1,089.99	39.00	1,590.00
1,090.00-1,119.99	40.00	1,635.00
1,120.00-1,149.99	41.00	1,680.00
1,150.00-or more	42.00	1,725.00

Maximum total Benefits at 13 weeks (Column D)	Maximum total Benefits at 20 weeks (Column E)	Maximum total Benefits at 26 weeks (Column F)
$169.00	$260.00	$ 338.00
182.00	280.00	364.00

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195.00	300.00	390.00
208.00	320.00	416.00
221.00	340.00	442.00
234.00	360.00	468.00
247.00	380.00	494.00
260.00	400.00	520.00
273.00	420.00	546.00
286.00	440.00	572.00
299.00	460.00	598.00
312.00	480.00	624.00
325.00	500.00	650.00
338.00	520.00	676.00
351.00	540.00	702.00
364.00	560.00	728.00
377.00	580.00	754.00
390.00	600.00	780.00
403.00	620.00	806.00
416.00	640.00	832.00
429.00	660.00	858.00
442.00	680.00	884.00
455.00	*700.00*	*910.00*
489.00	*720.00*	*936.00*
481.00	*740.00*	*962.00*
494.00	*760.00*	*988.00*
507.00	*780.00*	*1,014.00*
520.00	*800.00*	*1,040.00*
533.00	*820.00*	*1,066.00*
546.00	*840.00*	*1,092.00*

Such benefit shall not be more than *forty-two* dollars *($42)* per week nor less than *thirteen dollars ($13)* per week.

Qualifying wages.

(c) **Qualifying wages.** To qualify as an insured worker an individual must have been paid wages for insured work in his base period totaling not less than the amount in column C of the benefit schedule in subsection (b) on the line on which in column B there appears his weekly benefit amount; provided that an individual who has high-quarter wages of *eleven hundred and fifty dollars ($1,150)* or more must have been paid wages of one *and one-half (1 1/2) times his high-quarter wages during his base period including the high-quarter.*

Wage record.

(d) **Wage record.** The commission shall maintain a record of the wages paid to an individual in accordance

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with wages earned by him for employment by employers during each quarter.

(e) **Benefits.** All accrued benefits due and payable at the time of death to any deceased claimant shall be paid to the surviving spouse, or if there be no surviving spouse, then to the surviving children, or if there be no surviving children, then to the next of kin, without the necessity of any recipient obtaining letters testamentary or of administration." Benefits.

Section 2. Section 87-104, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-104. **Duration of benefits.** The maximum total amount of benefits payable to any eligible individual during any benefit year shall be: (a) *(1)* Thirteen (13) times his weekly benefit amount if he is qualified as an insured worker as defined in section 87-103 (c), and does not qualify under subsection *(2)* or *(3)* below. Duration of benefits.

(2) Twenty (20) times his weekly benefit amount if in addition to meeting the requirements of section 87-103 (c), he has been paid wages of $100.00 or more for insured work in each of two (2) quarters in his base period other than the quarter in which his wages were highest.

(3) Twenty-six (26) times his weekly benefit amount if in addition to meeting the requirement of section 87-103 (c), he has been paid wages of $100.00 or more for insured work in each of three (3) quarters in his base period other than the quarter in which his wages were highest.

(b) An individual disqualified by and pursuant to section 87-106, subsections (a), (b) and (c), shall have his maximum weekly duration reduced by the number of weeks equal to the number of weeks of disqualification."

Section 3. Section 87-106, R.C.M. 1947, is amended to read as follows: Amending clause.

"87-106. **Disqualification for benefits.** An individual shall be disqualified for benefits— Disqualification for benefits.

(a) If he has left work without good cause attributable to the employment for a period of not less than two (2)*nor* more than five (5) weeks (in addition to and im- Left work without good cause.

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mediately following the waiting period), as determined by the commission according to the circumstances in each case. No benefit payments or amounts paid any individual after having left work without good cause attributable to the employment shall ever be charged under section 87-109 against any employer (whose employment the individual left) on account of that particular employment.

Discharge.

(b) If he has been discharged:

(1) For misconduct connected with his work, or affecting his employment, for a period of not less than two (2) nor more than nine (9) weeks (in addition to and immediately following the waiting period), as determined by the commission in each case according to the seriousness of the misconduct;

(2) For gross misconduct connected with his work or committed on the employer's premises, as determined by the commission, for a period of twelve (12) months.

No benefit payments or amounts paid any individual after having been discharged for misconduct shall ever be charged under section 87-109 against any employer (from whose employment the individual was discharged for misconduct as above provided) on account of that particular employment.

Failed to apply for work.

(c) If he failed, without good cause, either to apply for available and suitable work when so directed by the employment office or the commission or to accept suitable work offered to him which he is physically able and mentally qualified to perform, or to return to his customary self-employment (if any) when so directed by the commission. Such disqualification shall continue for the week in which such failure occurred and for not less than two (2) nor more than five (5) weeks in addition to the waiting week which immediately follow such week as determined by the commission according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and

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prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that— **Labor dispute.**

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission, upon investigation,

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shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state wherein the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

Termination allowance—workmen's compensation benefits—unemployment compensation benefits.

(e) For any week with respect to which he is receiving or has received payment in the form of—

(1) Wages in lieu of notice or separation or termination allowance;

(2) Compensation for disability under the Workmen's Compensation Law or the Occupational Disease Law of this or any other state or under a similar law of the United States;

(3) Benefits under the Railroad Unemployment Insurance Act or any state unemployment compensation act or similar laws of any state or of the United States. This disqualification does not apply to any week with respect to which an individual is receiving or has received benefits under an unemployment compensation law of another state or of the United States, if such benefits are paid pursuant to section 87-129.

Compensation as set forth in subsection (2) above, which is received as a lump-sum payment for a permanent disability shall not be computed to be spread over a period of weeks in advance so as to bar the recipient from receiving benefits under this act for any week except the one in which the lump-sum payment is made, providing recipient has earned sufficient new wage credits following *the date of injury*.

Receipt of any wages, compensation or benefits as set forth in subsection (1), (2), or (3) above, after payment of unemployment benefits, and with respect to the same week for which unemployment benefits were received, will thereupon require such individual to repay such unemployment benefits and the commission may collect such unemployment benefits in the same manner as provided for collection of benefits under section 87-145 (d).

Students.

(f) During the school year (within the autumn, winter and spring seasons of the year) or the vacation periods

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within such school year or during any prescribed school term if claimant is a student regularly attending an established educational institution.

(g) For any week wherein claimant leaves her most recent work to be married. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105. Marriage.

(h) Where retired and entitled to receive retirement compensation in excess of one hundred dollars ($100.00) per calendar month paid in whole or in part from funds furnished by an employing unit, such disqualification to be applied as follows: All wages earned by such individual in the employment from which he has been retired shall not be considered or included in determining his wage credits or weekly benefit amount under section 87-103 and 87-105. No benefit payments or amounts paid any retired individual shall ever be charged under section 87-109 against any employing unit from whose employment the individual is retired and entitled to receive retirement compensation, on account of that particular employment, unless and until the commission shall determine (upon hearing, if requested by employer, and after at least ten (10) days' written notice of such hearing to said employer) that the individual was not retired by the employer acting in good faith. This disqualification does not extend to the receipt of benefits under the Federal Social Security Act, as amended. Retirement.

(i) For any week wherein claimant leaves her most recent employment during pregnancy, and due to such pregnancy, and such disqualifications shall continue through the period of pregnancy unless claimant presents evidence of her physical ability to work at such employment. At any time after the seventh month of pregnancy a claimant, to establish eligibility, must present evidence of physical ability to work at such employment. Further, at any time during the first two (2) months following childbirth, a claimant, to establish eligibility, must present evidence of her physical ability to work at such employment. In any of the cases set forth hereinbefore, such evidence of eligibility must be in the form of a certificate of a duly licensed physician that such claimant is Pregnancy.

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physically able to work at her most recent employment, and such evidence must be presented as often as requested by the commission. No benefit payments or amounts paid any individual after having left work because of pregnancy or childbirth shall ever be charged under section 87-109 against the employer (whose employment the individual left because of pregnancy or because of childbirth) on account of that particular employment.

Change of residence.

(j) For any week wherein claimant leaves her most recent work to change her place of residence in order to remain with her husband or relative. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105."

Amending clause.

Section 4. Section 87-109, R.C.M. 1947, is amended to read as follows:

Contributions—payment.

"87-109. **Contributions. (a) Payment.** (1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages as defined in section 87-149 (c), paid for employment (as defined in this act) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the commission for the fund in accordance with such regulations as the commission may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half (½) cent or more, in which case it shall be increased to one (1) cent.

Rate of contribution.

(b) **Rate of contribution.** (1) Each employer shall pay contributions *at the rate of three and one-tenth (3.1 per centum* of wages, as defined in section 87-149 (c) paid by him with respect to *such* employment, except as provided in subsection (c) of this section.

Experience rating.

(c) **Experience rating.** The commission shall for each calendar year, classify employers in accordance with their actual contribution and unemployment experience and shall determine for each employer the rate of con-

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tribution which shall apply to him throughout the calendar year in order to reflect said experience and classification.

The commission shall apply such form of classification or experience rating system which is best calculated to rate individually and most equitably the employment for each employer and to encourage the stabilization of employment.

In making such classification, the commission shall take account, each to an equal extent, of the following factors relating to the unemployment hazard shown by each employer on the basis of (1) average annual net percentage declines in taxable payrolls for the last three (3) years prior to computation date; (2) number of years the employer has paid contributions; and (3) chargebacks to the individual employer account upon the last employer basis. The computation date is hereby fixed as of the close of business on June 30th of the preceding calendar year.

The rates for the *second* calendar quarter of calendar year *1969* and thereafter, except as hereinafter provided, shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately *one and six-tenths (1.6)* per centum of the total of all such payrolls.

The commission shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations: **Rate limitation.**

(1) Each employer's rate shall be *three and one-tenth (3.1)* per centum unless and until there have been five (5) years prior to the computation *date* throughout which the employer has paid contributions at the *maximum tax rate set by law for each of such years.* **Employer's rate.**

(2) The classified contribution rates for the calendar year *1969*, and thereafter, except as hereinafter provided shall be: five-tenths (.5) of one per centum, seven-tenths (.7) of one per centum, nine-tenths (.9) of one per centum, one and one-tenth (1.1) per centum, one and three-tenths (1.3) per centum, one and five-tenths (1.5) per centum, one and seven-tenths (1.7) per centum, one **1969 vote.**

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and nine-tenths (1.9) per centum, two and one-tenth (2.1) per centum, two and three-tenths (2.3) per centum, two and five-tenths (2.5) per centum, two and seven-tenths (2.7) per centum, *two and nine-tenths (2.9) per centum, and three and one-tenth (3.1) per centum.*

Classified contribution rate.

(3) No employer shall be assigned a classified contribution rate higher than the second classified rate above the rate which was assigned to him for the last preceding calendar year except for the year 1961 and further as hereinafter provided.

Employer's rate minimum.

(4) No employer's rate shall be fixed below *three and one-tenth (3.1)* per centum whose benefit payments charged as most recent employer have, in the last three (3) years preceding the computation date, exceeded the amount of his contributions for those years, provided that any employer may, for the purpose of avoiding the provisions of this subsection, have the option of making a voluntary contribution to the unemployment compensation fund to cancel the amount by which the benefit payments charged to him under section 87-109 (c) during the last three (3) completed fiscal years exceed his contributions for the same three (3) years. Such voluntary contribution shall be applied first to cancel the amount by which benefits exceed contributions in the earliest of the three (3) years preceding the computation date, any remaining to cancel the excess in the second earliest year preceding the computation date, and any further remaining to cancel the excess in the most recent year preceding the computation date. Whenever the benefit payments charged to an eligible employer in the last three (3) fiscal years exceed his contributions for the same period, the commission shall notify him of the amount of such excess and the rate which would be applicable to him for the ensuing calendar year, if he exercises the option. Such employer must exercise the option of making the voluntary contribution allowed by this section within thirty (30) days after receipt of such notice; otherwise his rate for the ensuing calendar year shall be fixed at *three and one-tenth (3.1)* per centum.

Rates—effective period.

(5) Rates as fixed by the commission shall stand and be in effect unless and until the cash reserves in the unemployment compensation trust fund at any time in the future fall below, and remain below, eighteen

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million dollars ($18,000,000.00) continuously for a period of one (1) year, then employer rates effective at the beginning of the next succeeding calendar quarter shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately two (2) per centum of the total of all such payrolls, and shall continue at the two (2) per centum average rate until cash reserves in the unemployment compensation trust fund exceed twenty-six million dollars ($26,000,000.00) at which time all employer rates shall again be so fixed to bring an average return of *one and six-tenths (1.6)* per centum as in this section hereinabove provided; if reserves remain below eighteen million dollars ($18,000,000.00) continuously for a period of two (2) years, then the contribution rate of all employers subject to this act shall return to a uniform rate of *three and one-tenth (3.1)* per centum effective at the beginning of the next succeeding calendar quarter, and shall continue at the *three and one-tenth (3.1)* per centum rate until cash reserves in the unemployment compensation trust fund exceed twenty-six million dollars ($26,000,000.00) at which time all employer rates shall again be so fixed to bring an average return of *one and six-tenths (1.6)* per centum as in this section hereinabove provided.

Regulations and procedures.

(6) The commission shall by regulation adopt such procedures as may be necessary for the substitution, merging or acquisition of an employer account by an employing unit, and the transfer of such employer account, rights, contributions, benefit experience and ratings to the successor employing unit or units.

Notification of employers.

(7) The commission shall by regulation provide for the proper notification of employers of the classification and rate of contribution applicable to their accounts. Such notification shall be final for all purposes unless and until such employer files a written request with the commission for a redetermination or hearing thereon within thirty (30) days after receipt of such notice. The provisions of section 87-107 applicable to appeals under claims procedure shall apply with like purpose and effect, and be applicable to hearings and request for redeterminations of classifications and rates of contribution filed by employers hereunder.

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"Annual taxable payroll."

(8) 'Annual taxable payroll' means the total of the four (4) quarters of taxable payrolls of an employer preceding the computation date as fixed herein.

Hearing on claim.

(9) No employer's account shall be charged with benefits paid to any claimant in determining the contribution rate of such employer unless the employer has had notice of the claim for benefits and has been given opportunity for hearing as an interested party in the manner provided in sections 87-107 and 87-108. Written notice of any hearing shall be mailed to employer not less than ten (10) days prior to the date set.

(d) **Wages in excess of three thousand dollars ($3,000.00).** The provisions of this act requiring the payment of contributions by employers subject to this act shall apply only to wages paid up to and including three thousand dollars ($3,000.00) by an employer to an employee with respect to employment during any calendar year."

Saving clause.

Section 5. If any clause, sentence, section, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair, or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid or inoperative.

Repealing clause.

Section 6. All acts or parts of acts in conflict herewith are hereby repealed.

Effective dates.

Section 7. Sections 1, 2 and 3 of this act shall be in full force and effect on and after April 6, 1969, and sections 1, 2 and 3 shall apply to all benefit years beginning on and after April 6, 1969, and the insured status of all claimants who have a benefit year current on or after April 6, 1969, shall be redetermined and benefits shall be paid in accordance with this provision, provided that no insured worker shall have his benefits reduced or denied by redetermination resulting from the application of this provision; section 4 of this act shall be in full force and effect on and after April 1, 1969.

Approved: March 19, 1969.

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CHAPTER 5

An Act to Increase the Electrical Energy Producers' License Tax Providing an Effective Date; Amending Sections 84-1601 and 84-1602, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1601, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1601. **Electrical energy producers' license tax.** That in addition to the license tax now provided by law, each and every individual, firm, partnership, common-law trust, corporation, association or other organization now engaged in the generation, manufacture or production of electricity, and electrical energy in the state of Montana, either through water power or by any other means, for barter, sale or exchange and hereinafter referred to as the 'producer,' shall on or before the fifteenth day of each calendar month beginning with the fifteenth day of May, *1969*, render a statement to the state board of equalization of the state of Montana, showing the gross amount of money received on account of sales of electricity and electrical energy during the preceding calendar month without any deduction, and shall pay a license tax thereon in the sum of one and one-quarter per cent (1¼%) of such gross amount as shown on such statement in the manner and within the time hereinafter provided*; provided however, that for the two taxable years commencing on or after April 1, 1969, the tax shall be computed at the rate of one and four hundred thirty-eight thousandths per cent (1.438%).*" Electrical energy producers' license tax.

Section 2. Section 84-1602, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1602. **Payment of tax—not to be set out on customers' bills.** Said license tax shall be remitted with the statement and paid on or before the fifteenth (15*th*) day of each month. No bill, statement or account rendered or given any customer by any organization affected by the provisions of this act shall set out or contain, as a separate item, any amount on account or by reason of, the license tax imposed by this act." Payment of tax—not to be set out in customers' bills.

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Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved: March 19, 1969.

CHAPTER 6

An Act to Increase the Fee Payable to the Board of Railroad Commissioners by Motor Carriers Holding a Certificate of Public Convenience; Amending Section 8-127, R.C.M. 1947; Repealing Section 8-128, R.C.M. 1947, Which Section Concerns Disposition of Fees by the Railroad Commission and Which Has Been Superseded by Section 84-1902, R.C.M. 1947; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 8-127, R.C.M. 1947, is amended to read as follows:

Additional fees covering motor carriers.

"8-127. **Additional fees covering motor carriers.** In addition to all other licenses, fees and taxes imposed upon motor vehicles in this state and in consideration of the use of the highways of this state, every motor carrier holding a certificate of public convenience and necessity or permit issued by the board of railroad commissioners, shall between the first and fifteenth days of January, April, July and October of each year, file with the board of railroad commissioners a statement showing the gross operating revenue of such carrier for the preceding three (3) months of operation, or portion thereof, and shall pay to the board a fee of one-half (½) of one (1) per cent of the amount of such gross operating revenue; *provided, however, that for the two taxable years commencing on or after April 1, 1969, the fee shall be five hundred seventy-five thousandths (.575) of one per cent of the amount of such gross operating revenue;* and in the event that such carrier operates in interstate commerce, the gross operating revenue of such carrier within this state shall be deemed to be all the revenue received from business beginning and ending within this state, and a proportion based upon the proportion of the mileage within this state to the entire mileage over which the business is done of revenue on all business passing through, into

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or out of this state; provided, however, that the minimum fee which shall be paid by each class A and class B carrier for each vehicle registered and/or operated under the provisions of the Motor Carrier Act shall be thirty dollars ($30.00) and the minimum annual fee which shall be paid by each class C carrier for each vehicle registered and/or operated under the Motor Carrier Act shall be fifteen dollars ($15.00); provided, however, that the minimum annual fee provided by this section shall not apply to either new or used vehicles operated under their own power where such vehicle is being delivered to a dealer and will only be transported once."

Section 2. Section 8-128, R.C.M. 1947, is repealed. **Repealing clause.**

Section 3. This act is effective upon its passage and approval. **Effective immediately.**

Approved: March 19, 1969.

CHAPTER 7

An Act to Increase the Telephone Company License Tax; Amending Sections 84-2601 and 84-2602, R.C.M. 1947; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2601, R.C.M. 1947, is amended to read as follows: **Amending clause.**

"84-2601. **Annual tax levied on gross income of telephone business.** That on and after the first day of April, 1957, there is hereby levied and shall be collected an annual tax of one and one-half per cent (1½%) of the gross income, in excess of two hundred fifty dollars ($250) quarterly, derived from any telephone business within this state including the transmission of telephone messages in this state, over telephone lines in this state owned by any person, association or corporation; *providing, however, that for the two taxable years commencing on or after April 1, 1969; the tax shall be computed at the rate of one and seven hundred twenty-five thousandths per cent (1.725%) of the gross income, in excess of two hundred fifty dollars ($250) quarterly, derived from any telephone business within this state including the transmission of telephone* **Annual tax levied on gross income of telephone business.**

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messages in this state, over telephone lines in this state owned by any person, association or corporation; provided, however, that no bill, statement or account rendered or given any customer shall set out or contain, as a separate item, any amount on account or by reason of the license tax imposed by this act. Such annual license tax shall be paid in quarterly installments for the quarters ending respectively March 31, June 30, September 30, and December 31, in each year."

Amending clause.

Section 2. Section 84-2602, R.C.M. 1947, is amended to read as follows:

Statement and payment on gross income—certain business excluded.

"84-2602. **Statement and payment on gross income—certain business excluded.** Each and every person, association or corporation liable to tax under this act engaged in carrying on such telephone business in this state shall, within sixty (60) days after the end of each quarter, beginning with the quarter ending *June 30, 1969,* make out in duplicate and file with the state board of equalization, under oath, a statement in such form as the state board of equalization may require and prescribe, showing the total gross income of such person, association or corporation derived from the telephone business within this state including the transmission of telephone messages originating and terminating within this state, but excluding therefrom the gross income derived from the transmission of telephone messages passing through this state but both originating and terminating outside of this state and from those originating outside of, but terminating within this state and from those originating within but terminating outside of this state during the preceding quarter, and containing such other information as the state board of equalization may require; and shall accompany such statement with the payment to the state board of equalization of a license tax in the amount equal to one and one-half per cent (1½%); *provided, however, that for the two (2) taxable years commencing on or after April 1, 1969, the rate shall be one and seven hundred twenty-five thousandths per cent (1.725%)* of such gross income."

Effective immediately.

Section 3. This act is effective upon its passage and approval.

Approved: March 19, 1969.

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CHAPTER 8

An Act to Increase the Natural Gas Distributors' License Tax; Providing an Effective Date; Amending Section 84-2102, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2102, R.C.M. 1947, is amended to read as follows: Amending clause.

"84.2102. **Natural gas distributors' license tax—amount—standard for measurement of gas distributed—persons not contemplated by act.** Every person engaged in or carrying on the business of distributing to consumers within this state, natural gas, produced, or not produced within this state, or engaged in or carrying on the business of owning, controlling, managing, leasing or operating within this state, any system or plant for the distribution of natural gas, produced, or not produced within this state, to consumers within this state for the purpose of use outside this state, or engaged in or carrying on the business of owning, controlling, managing, leasing or operating within this state, any system or plant for the distribution of natural gas, produced, or not produced within this state, to consumers within this state must, for the year beginning July 1, 1957, and each year thereafter when engaged in carrying on such business in this state, pay to the state treasurer for the exclusive use and benefit of the state of Montana, a license tax for engaging in and carrying on such business an amount equal to one-half (½) of one (1) cent for each one thousand (1000) cubic feet of such natural gas, produced within this state, or not produced within this state, and distributed by such person to consumers within this state, during such year, or conveyed through a pipeline to a point outside this state during such year, except in connection with the operating of natural gas wells from which the same was extracted or produced, or delivered by such person to any other person for sale*; provided, however, for the two taxable years commencing on or after January 1, 1969, the tax shall be computed at the rate of five hundred seventy-five thousands (.575) of one cent for each one thousand (1,000) cubic feet of such natural gas, produced within this state, or not produced within this state, and distrib-* Natural gas distributors' license tax—amount—standard for measurement of gas distributed—persons not contemplated by act.

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uted by such person to consumers within this state, during such year, or conveyed through a pipeline to a point outside this state during such year, except in connection with the operating of natural gas wells from which the same was extracted or produced, or delivered by such person to any other person for sale; provided that the standard or base pressure to be used in the measurement of such gas so distributed for determining the amount of license tax imposed hereunder, shall be ten (10) ounces above an atmospheric pressure of fourteen (14) and four-tenths (4/10) pounds per square inch, and at a temperature of sixty (60) degrees Fahrenheit, regardless of the atmospheric pressure and temperature at the point of measurement, and all measurements of gas shall be reduced, by computation, to these standards no matter what may have been the pressure and temperature at which gas was actually produced or measured; provided, however, that nothing in this act shall be construed as requiring laborers, employees, hired or employed, by any person to work on or about, or in connection with any natural gas well property or business, to pay such license taxes, nor shall any work required to be done in prospecting, or in developing, or opening up any natural gas property or plant, be deemed to be carrying on of natural gas business, or engaging in the business of working or operating of a natural gas well or plant; provided further, that if during any such work of developing any natural gas property, any marketable natural gas shall be extracted or produced and sold, then the same shall be deemed the carrying on of a natural gas business of distributing to consumers."

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved: March 19, 1969.

CHAPTER 9

An Act to Increase the Metalliferous Mines License Tax; Amending Section 84-2004, R.C.M. 1947; Providing an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-2004, R.C.M. 1947, is amended to read as follows: Amending clause.

84-2004. **Amount of Tax.** The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semi-precious gems or stones are produced, shall be one dollar, together with an additional sum or amount computed on the gross value of product which may have been derived by such person from such business, work or operation within this state during the calendar year immediately preceding, at the following rates: one-half of one percent (½ of 1%) of the amount by which such gross value of product exceeds one hundred thousand dollars ($100,000) and does not exceed two hundred and fifty thousand dollars ($250,000); three-fourths of one percent (¾ of 1%) of the amount by which such gross value of product exceeds two hundred and fifty thousand dollars ($250,000) and does not exceed four hundred thousand dollars ($400,000); one percent (1%) of the amount by which the gross value of product exceeds four hundred thousand dollars ($400,000) and does not exceed five hundred thousand dollars ($500,000) and one and one-fourth percent (1¼%) of the amount by which the gross value of product exceeds five hundred thousand dollars ($500,000); *provided, however, that for all production obtained during the production years 1969 and 1970, the rate of tax shall be fifteen hundredths of one percent (0.15 of 1%) of the first one hundred thousand dollars ($100,000) of the gross value of the product; five hundred seventy-five thousandths of one percent (0.575 of 1%) of the amount by which such gross value of product exceeds one hundred thousand dollars ($100,000) and does not exceed two hundred and fifty thousand dollars ($250,000); eighty-six hundredths of one percent (0.86 of 1%) of the amount by which such gross value of product exceeds two hundred and fifty thousand dollars ($250,000) and does not exceed four hundred thousand dollars ($400,000); one and fifteen hundredths percent (1.15%) of the amount by which the gross value of product exceeds four hundred thousand* Amount of tax.

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dollars ($400,000) and does not exceed five hundred thousand dollars ($500,000) and one and four hundred thirty-eight thousandths percent (1.438%) of the amount by which the gross value of product exceeds five hundred thousand dollars ($500,000).''

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved: March 19, 1969.

CHAPTER 10

An Act to Amend Section 84-4902, R.C.M. 1947, Relating to the Rate of Income Tax; and Providing for a Surcharge; and Changing and Adding Income Tax Brackets and Rates of Income Tax for All Taxable Years Commencing on or After December 31, 1968; and Further Amending Section 84-4903.5, R.C.M. 1947, to Provide for Monthly Payments to the State Board of Equalization of Amounts Withheld From Payments to Nonresidents Under Section 84-4903.2, R.C.M. 1947, If the Amount Withheld Is $50 or More in Each Quarterly Period of Any Year, Applying Changes When Payments Are Due to Payment Periods Beginning After June 30, 1969; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4902, R.C.M. 1947, is amended to read as follows:

Rate of income tax.

"84-4902. **Rate of income tax.** There shall be levied, collected and paid for each taxable year, commencing on or after December 31, *1968* upon the taxable income of every taxpayer subject to this tax, after making allowance for exemptions and deductions, as hereinafter provided, a tax at the following rates, to wit:

(a) On the first one thousand dollars ($1,000) of taxable income, or any part thereof, at the rate of two per centum (2%);

(b) On the next one thousand dollars ($1,000) of tax-

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able income, or any part thereof, at the rate of three per centum (3%);

(c) On the next two thousand dollars ($2,000) of taxable income, or any part thereof, at the rate of four per centum (4%);

(d) On the next two thousand dollars ($2,000) of taxable income, or any part thereof, at the rate of five per centum (5%);

(e) On the next two thousand dollars $2,000) of taxable income, or any part thereof, at the rate of six per centum (6%);

(f) On the next two thousand dollars ($2,000) of taxable income, or any part thereof, at the rate of seven per centum (7%);

(g) On the next *four thousand dollars ($4,000)* of taxable income, or any part thereof, at the rate of eight per centum (8%);

(h) *On the next six thousand dollars ($6,000) of taxable income, or any part thereof, at the rate of nine percent (9%);*

(i) On the next fifteen thousand dollars ($15,000) of taxable income, or any part thereof, at the rate of ten percent (10%);

(j) On any taxable income in excess of thirty-five thousand dollars ($35,000) of taxable income, or any part thereof, at the rate of eleven percent (11%)."

Section 2. After the amount of tax liability has been computed for the current taxable year, each person filing a Montana individual income tax return shall add, as a surtax, ten percent (10%) of the tax liability, and the amount so arrived at is the amount due the state of Montana. Surtax.

Section 3. Section 84-4903.5, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-4903.5. *Monthly* **payment by withholding agent—exception.** Withholding agents required to deduct and Monthly payment by withholding agent—exception.

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withhold tax payments under the provisions of section 84-4903.2 shall remit such payments *monthly* to the state board of equalization for each *monthly* period on or before the *fifteenth* day of the month following the close of such *monthly* period, *except that payments for the month of December shall be made on or before the following January 31, payments for the month of March shall be made on or before the following April 30, payments for the month of June shall be made on or before the following July 31, and payments for the month of September shall be made on or before the following October 31.*

Provided, however, that when the aggregate total amount of the tax withheld under the provisions of section 84-4903.2 shall amount to less than *fifty dollars ($50)* in each quarterly period of any year, such withholding agent shall not be required to file the *monthly* returns or to make the *montly* payments last hereinabove provided for, but in lieu thereof such withholding agent shall, on or before February fifteenth of the year next succeeding that in which such payments were withheld, file an annual return in such form as shall be determined by the board, and shall pay therewith the amount required by this act to be deducted and withheld by such withholding agent from all payments paid during the preceding calendar year.''

Effective dates. Section 4. Section 1 and section 2 of this act shall be effective as to all taxable years commencing on or after December 31, 1968, whether on a calendar or fiscal year basis.

Same. Section 5. Section 3 of this act shall be effective as to all payment periods beginning after June 30, 1959.

Effective immediately. Section 6. This act shall be effective from and after its passage and approval.

Repealing clause. Section 7. Section 2 of chapter five, extraordinary session laws of Montana, 1967 is repealed.

Same. Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 19, 1969.

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CHAPTER 11

An Act to Amend Section 84-1501, R.C.M. 1947, by Increasing the Corporation License Tax From Five and One-Half Percent to Six and One-Quarter Percent; Increasing the Minimum Tax; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1501, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1501. **Corporation license tax — organizations exempt therefrom.** The term corporation includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M. 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth. Corporate license tax—organizations exempt therefrom.

The percentage of net income to be paid under this section shall be *six and one-quarter percent (6 1/4%)* of all net income for the taxable period. The rate set forth in this act shall be effective for taxable years ending on or after February 28, *1969. For taxable years ending on or after February 28, 1971, the percentage of net income to be paid under this act shall be five and one-half per-*

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cent (5 1/2%) of all net income for the taxable period. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than *fifty dollars ($50).*

Exemptions.

There shall not be taxed under this title any income received by any—

(a). Labor, agricultural or horticultural organization;

(b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

(c). Cemetery company owned and operated exclusively for the benefit of its members;

(d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e). Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

(f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h). Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or co-operative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i). Any co-operative association or corporation engaged in the business of operating a rural electrification

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system or systems for the transmission or distribution of electrical energy on a co-operative basis;

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Section 2. Notwithstanding the provisions of this act, corporations electing and qualifying under section 84-1501.2 shall pay a minimum fee of ten dollars ($10). Minimum fee.

Section 3. This act is effective upon its passage and approval. Effective immediately.

Approved: March 19, 1969.

CHAPTER 12

An Act Providing for the Imposition of a Tax on the Sale of All Tobacco Products, Not Including Cigarettes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** As used in this act, the following definitions shall apply unless the context otherwise requires:

(1) The word "board" shall mean the state board of equalization of the state of Montana. "Board."

(2) The word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, organization or association, however formed. "Person."

(3) The word "cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, "Cigarettes."

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the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Sale." (4) The words "sale" or "sell" shall mean and include any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatever of tobacco products, other than cigarettes.

"Wholesaler." (5) The word "wholesaler" shall mean any person who purchases tobacco products, other than cigarettes, directly from the manufacturer, or who purchases tobacco products, other than cigarettes, from any other person who purchases from the manufacturer, and who acquires such products for the purpose of bona fide sales to retail dealers, or who services retail outlets by the maintenance of an established place of business for the purchase of tobacco products, other than cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of tobacco products. The word "retailer" shall mean any person other than a wholesaler who is engaged in the business of selling tobacco products to the ultimate consumer.

"Wholesale price." (6) The words "wholesale price" shall mean the established price for which a manufacturer sells a tobacco product, other than cigarettes, to a wholesaler or unclassified acquirer before any discount or other reduction.

Presumption of direct taxes on retail consumer. Section 2. (1) All taxes paid pursuant to the provisions of this section shall be exclusively presumed to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person such payment shall be considered as an advance payment and shall be added to the price of tobacco products, other than cigarettes, and recovered from the ultimate consumer or user. Any person selling tobacco products, other than cigarettes, at retail shall state or separately display in the premises where such products are sold, a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax as hereinafter provided.

(2) There is hereby levied, imposed and assessed, and

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there shall be collected and paid to the state of Montana, upon tobacco products, other than cigarettes, sold or possessed in this state, a tax of twelve and one-half percent (12½%) of the wholesale price of such products to the wholesaler, excepting therefrom such said products as may be shipped from Montana and destined for retail sale and consumption outside the state of Montana.

Precollected tax.

Section 3. The tax imposed shall be precollected and paid by the wholesaler to the board prior to the sale of tobacco products, other than cigarettes, to the purchaser from the wholesaler.

Violation—penalty.

Section 4. Any wholesaler who shall sell any tobacco products, other than cigarettes, without first making payment of the tax provided for by this act in the manner and at the time specified shall be guilty of a misdemeanor, and further shall be enjoined by an action pursued in the district court of the county of Lewis and Clark, Montana from making further sale of tobacco products, other than cigarettes, for a period not less than one (1) month nor more than one (1) year.

Same.

Section 5. It shall be unlaful for any person, individual, firm or corporation to sell or offer to sell any tobacco products subject to this tax without the tax having been prepaid as provided for in this act. Violation of this section shall constitute a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or imprisonment for not more than six (6) months.

Collection allowance.

Section 6. The taxes specified in this act that are paid by the wholesaler, shall be paid to the board in full less a five percent (5% defrayment for his collection and administrative expense and shall be deposited by the board in the long-range building sinking fund number 338766. Refunds of the tax paid shall be made as provided in section 84-726, R.C.M. 1947, in cases where the tobacco products purchased become unsaleable.

Rules and regulations.

Section 7. The board is authorized to adopt rules for the effective collection and refund of the tax imposed by this act.

Approved: March 19, 1969.

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APPROPRIATIONS

ENACTED BY THE

Extraordinary Session

OF THE

Forty-first Legislative Assembly

STATE OF MONTANA

1969

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APPROPRIATION MEASURES

EXTRAORDINARY SESSION HOUSE BILL NO. 1

An Act Appropriating Money for the Operation of the Extraordinary Session of the Forty-First Legislative Assembly Convened on March 10, 1969; Specifying an Immediate Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. One hundred thousand dollars ($100,000) is appropriated from the general fund for the operation of the extraordinary session of the forty-first legislative assembly convened on March 10, 1969.

Section 2. This act is effective on passage and approval.

Approved: March 14, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 2

An Act to Appropriate Money for the Support of the Public Schools; Appropriating Money for the Foundation Program and School Transportation Payments for the Biennium Ending June 30, 1971; Providing for Appropriations for Payments to School Districts for Children of a State Employee Residing on the Property of State Institutions Who Attend School in the District for the Fiscal Years Ending June 30, 1970, and June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following moneys are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
(1) From the general fund for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program	$17,150,000	$15,850,000

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(2) From the general fund for payment of transportation aid in accordance with Montana school law	1,400,000	1,425,000
(3) From the earmarked revenue fund, state equalization aid account No. 221700, for payments to school districts in accordance with the provisions of section 75-3624, R.C.M. 1947:		
(a) For the fiscal year ending June 30, 1970, as much as may be necessary to fulfill the legal obligations of the act;		
(b) For the fiscal year ending June 30, 1971, as much as may be necessary to fulfill the legal obligations of the act.		

Section 2. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: March 19, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 3

An Act to Appropriate Monies to the Attorney General, State Auditor, Governor, Railroad and Public Service Commission, Secretary of State, Supreme Court, State Treasurer, Superintendent of Public Instruction and the Board of Education for Operation and Capital for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

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(1) The term "operation" means all ordinary and necessary expenditures for operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health insurance.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

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(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the agencies, boards, or institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, board or institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No state officer, department, board, agency, commission, or institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an office, department, board, agency, commission, or institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. The following monies are appropriated for the biennium ending June 30, 1971:

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	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ATTORNEY GENERAL		
(1) From the General Fund for:		
(a) personal services	$150,370	$174,130
(b) operation and capital	61,904	48,335
(c) Criminal Investigator, personal services	44,237	47,242
(d) Criminal Investigator, operation and capital	21,015	16,935
(e) Teletypewriter Communications, personal services	9,600	9,600
(f) Teletypewriter Communications, operation	12,960	23,842
(2) From the Earmarked Revenue Fund, Escheated Estates Account for:		
(a) personal services	10,651	11,011
(b) operation	8,825	8,825
(3) Revolving Fund #705600 Teletypewriter Communications, personal services and operation	26,560	26,560
(4) There is hereby appropriated from the Agency Fund, Escheated Estates Account to the Earmarked Revenue Fund, Escheated Estates Account, sufficient monies to meet the appropriations in items (2) (a), (b) above.		
STATE AUDITOR		
(1) From the General Fund for:		
(a) personal services	241,499	252,164
(b) operation and capital	108,830	91,960
(2) From the Earmarked Revenue Fund, Highway Account for:		
(a) operation and capital	25,000	25,000

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(3) From the Earmarked Revenue Fund, Firemen's Disability Account, for the distribution of premium tax collections as provided in sections 11-1919 and 11-2030, R.C.M. 1947, an appropriation sufficient to meet the requirements provided by law.

(4) From the Earmarked Revenue Fund, Police Revenue Account, for the distribution of premium tax collections as provided in section 11-1834, R.C.M. 1947, an appropriation sufficient to meet the requirements as provided by law. The State Auditor shall not distribute any of the moneys hereby appropriated to any city or town, having a police retirement system established under the provisions of the Metropolitan Police Law, which is not levying at least a portion of the maximum levy required by law for the fund for the payment of salaries of police officers on the reserve list. However, this restriction shall not apply to cities or towns which have on deposit in the fund for payment of salaries of reserve police officers an amount of money equal to the product of seven thousand dollars ($7,000) multiplied by the number of active members of the police department of the city or town. Nor shall the State Auditor distribute any of the monies hereby appropriated to any city or town having a police retirement system established under the provisions of the Metropolitan Police Law, which is not collecting five percent (5%) of the monthly wage from each active member of its police department, unless the city or town has on deposit an amount of money equal to the product of seven

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thousand dollars ($7,000) multiplied by the number of active members of the police department of such city or town.

(5) From the General Fund, State Central Payroll System for:

(a) personal services	10,570	11,020
(b) operation and capital	11,430	10,780

(6) From the Revolving Fund, Centralized Payroll Account for:

(a) personal services	11,850	12,540
(b) operation and capital	29,150	27,960

Additional monies in this account may be made available by approved budget amendment.

GOVERNOR

(1) From the General Fund for:

(a) Governor's office for personal services	116,983	122,239
(b) Governor's office for operation and capital	45,340	50,190
(c) Governor's Mansion for personal services	12,250	12,870
(d) Governor's Mansion for operation and capital	15,320	15,445
(e) State Federal Coordinator for personal services, operation and capital	52,225	53,236

(2) From the Federal and Private Revenue Fund for:

(a) Law Enforcement Planning Committee Account for personal services, operation and capital	290,768	297,280

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(3) From the Federal and Private Grant Clearance Fund for:		
(a) Law Enforcement Planning Committee Account for personal services, operation and capital	82,028	200,000
RAILROAD AND PUBLIC SERVICE COMMISSION		
(1) From the General Fund for:		
(a) personal services	188,734	199,061
(b) operation and capital	64,700	67,800
SECRETARY OF STATE		
(1) From the General Fund for:		
(a) personal services	108,302	113,333
(b) operation and capital	46,350	60,980
SUPREME COURT		
(1) From the General Fund for:		
(a) administration of the Supreme Court for personal services	194,773	196,790
(b) administration of the Supreme Court for operation and capital	21,190	20,135
(c) Attorney's Licensing Board	8,900	8,900
STATE TREASURER		
(1) From the General Fund for:		
(a) personal services	56,660	58,766
(b) operation and capital	6,325	6,692
(2) From the Earmarked Revenue Fund, Unclaimed Property Account for:		
(a) personal services, operation and capital	8,734	9,509
There is hereby appropriated from the Agency Fund, Unclaimed Prop-		

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erty Account, to the Earmarked Revenue Fund, Unclaimed Property Account, sufficient monies to meet the appropriations in item (2) (a) above.

SUPERINTENDENT OF PUBLIC INSTRUCTION

(1) From the General Fund for:		
(a) all duties and services of the office of the Superintendent of Public Instruction including the National Defense Education Act but excluding the Manpower Development and Training Act and Vocational Education, for personal services, operation and capital	476,522	506,919
(b) Manpower Development and Training, personal services, operation and capital and educational training projects	45,047	49,547
(c) Vocational Education, personal services, operation and capital	68,725	74,867
(2) From the Earmarked Revenue Fund for:		
(a) Drivers' Education Account for personal services, operation and capital	24,000	24,000
(b) Drivers' Education Account for distribution to schools in accordance with provisions of House Bill No. 318, Forty-first Legislative Assembly, as much as is available for distribution.		
(c) State Equalization Aid Account for all duties and services of the office of the Superintendent of Public Instruction including the National Defense Education Act but excluding the Manpower		

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Development and Training Act and Vocational Education, for personal services, operation and capital	189,432	201,681
(d) State Equalization Aid Account for Vocational Education, personal services, operation and capital	90,172	93,685
(e) The amount of $25,000 is appropriated from the Earmarked Revenue Fund, State Equaliza- Aid Account to the Revolving Fund, School Lunch Program Account, to cover the handling charges of commodities to districts to be reimbursed by such districts. Any balance remaining in the Revolving Fund, School Lunch Program Account, at the end of the biennium shall revert to the fund from which it was appropriated.		
(3) From the Federal and Private Revenue Fund, Public Instruction Account for:		
(a) All duties and services of the of the office of the Superintendent of Public Instruction including the National Defense Education Act but excluding the Manpower Development and Training Act and Vocational Education, for personal services, operation and capital	1,996,342	2,102,554
(b) Manpower Development and Training for personal services, operation and capital	43,800	45,600
(c) Vocational Education for personal services, operation and capital	139,517	127,686
(d) All federal monies are hereby appropriated.		

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(4) From the Federal and Private Revenue Fund, Surplus Donable Property Account:		
(a) For personal services, operation and capital	51,725	57,240
(b) Revenues received in excess of the accounts specified in subsection (a) are hereby appropriated.		
BOARD OF EDUCATION		
(1) From the Earmarked Revenue Fund for:		
(a) University Millage Fund for Board of Education, personal services, operation and capital	24,537	27,447
(2) From the General Fund for the control and supervision of interschool contests and programs as provided in Senate Bill No. 154, Forty-first Legislative Assembly	63,000	66,500

Approved: March 17, 1969.

EXTRAORDINARY HOUSE BILL NO. 4

An Act to Appropriate Monies to Certain State Agencies for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health

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insurance. Employees' annual salary increases for the fiscal year ending June 30, 1970, shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1969, unless promoted to a position with additional responsibilities, duties, or both. Employees' annual salary increases for the fiscal year ending June 30, 1971, shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1970, unless promoted to a position with additional responsibilities, duties, or both.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

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(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the agencies, boards, or institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, board or institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No state officer, department, board, agency, commission, or institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an office, department, board, agency, commission, or institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. The following monies are appropriated for the biennium ending June 30, 1971:

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	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ADJUTANT GENERAL		
(1) From the general fund for:		
(a) personal services	$183,700	$192,900
(b) operation and capital	172,200	174,400
(c) reimbursement for costs, expenses, and maintenance of joint use facilities	2,000	2,000
(2) From the federal and private revenue fund, national guard account for:		
(a) operation	113,500	113,500
(b) reimbursement for costs, expenses, and maintenance of joint use facilities	8,000	8,000
DEPARTMENT OF AGRICULTURE		
(1) From the general fund for:		
(a) personal services	342,700	360,400
(b) operation and capital	98,600	103,100
(c) marketing coordinator	11,000	11,000
(2) From the earmarked revenue fund:		
(a) commercial feed account for personal services, operation, and capital	38,400	40,200
(b) commercial fertilizer account for personal services	14,304	15,841
(c) commercial fertilizer account for operation and capital	23,378	21,254
(d) grain services account for personal services	257,400	270,300
(e) grain services account for operation and capital	28,700	29,800

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(3) From the federal and private revenue fund:		
(a) marketing service account for personal services, operation and capital	13,250	13,250
(4) The amount of $5,000 is hereby appropriated from the general fund to the revolving fund, agriculture department account, and from the revolving fund, agriculture department account for reimbursable expenditures for egg seals, cheese and butter inspections and grading, and special inspections of scales. Any balance remaining in this account at the end of the biennium shall revert to the general fund.		
(5) The head of this agency shall not receive a salary in excess of $14,000 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971.		
CIVIL DEFENSE		
(1) From the general fund for:		
(a) personal services	51,521	53,992
(b) operation and capital	18,000	18,900
(2) From the federal and private revenue fund:		
(a) civil defense account (No. 410510) for personal services, operation and capital	100,000	103,000
(b) civil defense account (No. 410526) for personal services, operation and capital	32,000	33,000
COUNTY ATTORNEYS		
(1) From the general fund for:		
(a) personal services	152,579	163,195

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STATE ENTOMOLOGIST

(1) From the general fund for:

(a) personal services	27,800	29,200
(b) operation	6,800	7,200
(c) capital	300	200

STATE EXAMINER

(1) From the general fund for:

(a) personal services	302,850	318,000
(b) operation and capital	59,000	63,000

(2) From the earmarked revenue fund, special examinations account for:

(a) operation	35,000	35,000

(3) From the revolving fund, state examiner's account for:

(a) all fees for special examinations of state agencies are appropriated. Any balance remaining in this account at the end of the biennium shall revert to the general fund.

(4) The head of this agency shall not receive a salary in excess of $13,000 for the fiscal year ending June 30, 1970; and $13,000 for the fiscal year ending June 30, 1971.

HIGHWAY PATROL

(1) From the general fund for:

(a) personal services	1,579,100	1,658,000
(b) operation	932,000	921,000
(c) capital	206,300	138,000

(d) transfers between objects may be made by approved budget amendment.

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(2) From the earmarked revenue fund, highway account for:		
(a) personal services	90,200	94,700
(b) operation and capital	69,000	71,000
(3) From the federal and private revenue fund, highway patrol account for:		
(a) personal services, operation, and capital	84,600	91,600
(4) The head of this agency shall not receive a salary in excess of $13,300 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971.		

HISTORICAL SOCIETY

(1) From the general fund for:		
(a) personal services, operation, and capital	149,263	145,496
(2) From the earmarked revenue fund, historical society account for:		
(a) personal services, operation and capital	43,387	45,121
(3) From the revolving fund historical society account	149,830	153,468
(4) The head of this agency shall not receive a salary in excess of $13,125 for the fiscal year ending June 30, 1970; and $13,800 for the fiscal year ending June 30, 1971.		

COMMISSIONER OF LANDS AND INVESTMENTS

(1) From the general fund for:		
(a) personal services	159,300	167,300
(b) operation and capital	43,575	43,575
(2) From the earmarked revenue fund,		

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lands and investments resource development account for:		
(a) personal services	18,000	19,000
(b) operation and capital, all funds in the account not otherwise appropriated.		
(3) The head of this agency shall not receive a salary in excess of $14,200 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.		
LIQUOR CONTROL BOARD		
(1) From the earmarked revenue fund, liquor control board account for:		
(a) personal services	1,950,000	2,050,000
(b) operation and capital	625,000	625,000
(c) out-of-state travel: administrator and board	2,000	2,000
(d) out-of-state travel: inspectors	2,000	2,000
(2) The head of this agency shall not receive a salary in excess of $12,500 for either year of the biennium ending June 30, 1971.		
LIVESTOCK COMMISSION		
(1) From the general fund for: (a) emergency control of rabies	10,000	
(2) From the earmarked revenue fund, livestock commission account for:		
(a) personal services	484,300	508,515
(b) operation and capital	195,802	197,000
(c) brand re-recording		
i. personal services		37,796
ii. operation and capital		15,264

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(3) The head of this agency shall not receive a salary in excess of $13,250 for the fiscal year ending June 30, 1970; and $13,750 for the fiscal year ending June 30, 1971.

LIVESTOCK SANITARY BOARD

(1) From the general fund for:

(a) personal services	209,836	300,018
(b) operation and capital	43,277	54,900
(c) veterinary research grant	10,400	10,400

(2) From the earmarked revenue fund, livestock sanitary board account for:

(a) personal services	256,106	185,000
(b) operation and capital	50,000	35,000

(3) From the federal and private revenue fund, livestock sanitary account for:

(a) personal services	117,479	122,568
(b) operation	10,073	8,680

(4) The head of this agency shall not receive a salary in excess of $17,850 for the fiscal year ending June 30, 1970; and $18,275 for the fiscal year ending June 30, 1971.

BOARD OF PARDONS

(1) From the general fund for:

(a) personal services	102,000	107,200
(b) operation and capital	37,500	39,000

(2) The head of this agency shall not receive a salary in excess of $10,000 for the fiscal year ending June 30, 1970; and $10,200 for the fiscal year ending June 30, 1971.

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DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(1) From the general fund for:

(a) personal services, operation, and capital	300,000	300,000

(2) From the federal and private revenue fund, planning board account, all funds available are hereby appropriated.

(3) The head of this agency shall not receive a salary in excess of $22,500 for either year of the biennium ending June 30, 1971.

REGISTRAR OF MOTOR VEHICLES

(1) From the earmarked revenue fund, motor vehicle account for:

(a) personal services	356,000	385,000
(b) operation	345,000	350,000
(c) capital	20,000	14,000

(2) The head of this agency shall not receive a salary in excess of $10,500 for the fiscal year ending June 30, 1970; and $11,000 for the fiscal year ending June 30, 1971.

EMPLOYMENT SECURITY COMMISSION

(1) From the federal and private revenue fund, ESC administrative account for:

(a) personal services	3,222,343	3,334,505
(b) operation and capital	499,473	503,441

(2) From the federal and private revenue fund, Manpower Development and Training Act (MDTA) payments account 1,735,000 1,735,000

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DEPARTMENT OF ADMINISTRATION

(1) From the general fund for:		
(a) personal services	295,000	310,514
(b) operation and capital	311,000	317,885
(c) the state controller shall deposit one dollar ($1) per square foot of rent monies for each year collected for rent on state buildings in the capitol complex with the state treasurer to the credit of the general fund.		
(2) From the general fund for: accounting system design and implementation		
(a) personal services	73,594	77,406
(b) operation and capital	24,500	24,500
(c) consultants	20,000	20,000
(d) transfers between objects may be made by approved budget amendment.		
(3) From the earmarked revenue fund:		
(a) aeronautics commission account for operation	4,000	4,000
(b) fish and game account for operation	24,000	24,000
(c) highway account for operation	73,000	73,000
(d) veterans' memorial account for operation and capital	1,600	
(4) From the federal and private revenue fund, capital building account for:		
(a) operation	43,410	49,350
(b) renovating the attorney general's office, providing a ventilation system therefore, and for certain new furnishings	8,200	

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(5) From the revolving fund:

(a) All revenue derived from central data processing and the supervision and inspection of building construction performed by the department of administration shall be deposited in the revolving fund, general services account or construction supervision account. All monies deposited in either of these accounts, are appropriated to the department of administration.

(6) The head of this agency shall not receive a salary in excess of $20,000 for the fiscal year ending June 30, 1970; and $20,000 for the fiscal year ending June 30, 1971.

DIRECTOR OF THE BUDGET

(1) From the general fund for:

(a) personal services	59,677	65,019
(b) operation and capital	14,550	18,750

(2) The head of this agency shall not receive a salary in excess of $13,608 for the fiscal year ending June 30, 1970; and $14,244 for the fiscal year ending June 30, 1971.

DEPARTMENT OF PUBLIC WELFARE

(1) From the general fund for:

(a) personal services, operation and capital	6,388,606	6,618,579

(2) From the federal and private revenue fund, public welfare account for:

(a) personal services, operation and capital	1,878,500	2,041,000

(3) Any funds available to the department of public welfare which are unexpended during the biennium ending

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June 30, 1969, are hereby reappropriated to the biennium ending June 30, 1971.

(4) The head of this agency shall not receive a salary in excess of $16,000 for the fiscal year ending June 30, 1970; and $16,000 for the fiscal year ending June 30, 1971.

SOIL CONSERVATION COMMITTEE

(1) From the general fund for:		
(a) personal services	17,000	17,000
(b) operation and capital	9,300	9,300
(c) watershed project planning	75,000	75,000
(2) The head of this agency shall not receive a salary in excess of $11,000 for the fiscal year ending June 30, 1970; and $11,000 for the fiscal year ending June 30, 1971.		

DIVISION OF VOCATIONAL REHABILITATION

(1) From the general fund for:		
(a) personal services, operation and capital	265,775	275,250
(2) From the federal and private revenue fund, vocational rehabilitation account for:		
(a) personal services, operation and capital	1,445,723	1,723,552
(3) From the agency fund, industrial accident rehabilitation account for:		
(a) personal services, operation and capital	50,000	50,000
(4) The head of this agency shall not receive a salary in excess of $12,500 for the fiscal year ending June 30, 1970; and $13,000 for the fiscal year ending		

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June 30, 1971. This salary shall be paid from the general fund appropriation.

WATER RESOURCES BOARD

(1) From the general fund for:		
(a) personal services	494,292	524,292
(b) operation and capital	110,100	116,300
(c) ground water	15,000	15,000
(d) river basins commission	40,000	40,000
(e) water resources study	95,000	95,000
(f) statewide comprehensive water plan	77,000	77,000
(g) Sidney water users' project	250,000	
(h) Computer Water Planning Model	25,000	16,000
Item (g) is not limited by annual reversion provision as specified in Section 2. (1) of this act.		
(2) From the earmarked revenue fund, water conservation account for:		
(a) operation and capital	214,500	150,000
(3) From the federal and private revenue fund, water board account for:		
(a) field program and comprehensive water plan program	98,000	103,500

(4) The head of this agency shall not receive a salary in excess of $12,600 for the fiscal year ending June 30, 1970; and $13,200 for the fiscal year ending June 30, 1971.

MONTANA ARTS COUNCIL

(1) From the earmarked revenue fund, Montana arts council account, all donations, gifts, bequests, and grants are appropriated to the Montana arts council for operation and capital.

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(2) From the general fund for personal services and operations	25,000	25,000
COMMISSION ON UNIFORM STATE LAWS		
(1) From the general fund for:		
(a) operation and capital	2,100	2,100
COMMISSION ON AGING		
(1) From the general fund for:		
(a) personal services	9,600	9,600
(b) operation and capital	4,000	4,000
(2) From the federal and private revenue fund, problems of aging account for:		
(a) personal services	9,600	9,600
(b) operation and capital	4,000	4,000
(3) The head of this agency shall not receive a salary in excess of $9,000 for the fiscal year ending June 30, 1970; and $9,000 for the fiscal year ending June 30, 1971.		

Approved: March 19, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO 5

An Act Appropriating Monies for Certain State Agencies and Institutions of Government for the Biennium Ending June 30, 1969.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts of money are appropriated for the biennium ending June 30, 1969:

Agriculture, Department of:

From the general fund for publication of a statistical report, for operation, one thousand five hundred dollars ....$ 1,500

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Secretary of State:

From the general fund for personal services and operation, forty-six thousand six hundred and sixty dollars 46,660

Administration, Department of:

From the general fund for operation and capital, thirty thousand dollars 30,000

Galen State Hospital:

From the general fund for personal services, eighty-nine thousand eight hundred dollars 89,800

Law Library:

From the general fund for operation and capital, three thousand dollars 3,000

Mountain View School:

From the general fund for clothing, medical costs, and unanticipated communication, for operation, seventeen thousand dollars 17,000

Governor's Office and Mansion:

From the general fund for personal services, operation, and capital, governor's office, fifty thousand dollars 50,000

From the general fund for personal services, operation, and capital, governor's mansion, thirty-five hundred dollars 3,500

Public Welfare, Department of:

From the general fund for operation, six hundred and seventeen thousand five hundred dollars 617,500

Warm Springs State Hospital:

From the general fund for personal services, eighty thousand one hundred dollars 80,100

From the general fund for personal services, dairy program, thirty-eight thousand nine hundred and forty-six dollars 38,946

From the general fund for operation, twenty-five thousand dollars 25,000

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Montana State Prison:

From the general fund for completion of dairy building and purchase of smokehouse oven, for operation and capital, forty-four thousand six hundred and seventy-four dollars 44,674

Lands & Investments, Department of:

From the general fund for payment to counties authorized by section 81-1118, R.C.M. 1947, for grants and benefits, one hundred and thirty-three thousand dollars 133,000

Eastern Montana Facility for Mentally Retarded:

From the general fund for initial staffing and program development, for personal services, operation and capital, ten thousand six hundred and forty-two dollars 10,642

Governor:

From the general fund for personal services, operation, and capital, State-Federal Coordinator program, seventeen thousand four hundred and fifty-two dollars 17,452

Highway Traffic Safety Director:

From the earmarked revenue fund, state highway account for personal services, operation, and capital, eight thousand four hundred dollars 8,400

Liquor Control Board:

From the earmarked revenue fund, Liquor Control Board account for travel, five hundred dollars 500

From the earmarked revenue fund, Liquor Control Board account for personal services, two hundred and fifteen thousand one hundred dollars 215,100

Highway Commission:

From the earmarked revenue fund, highway account for personal services, operation, and capital, maintenance program, five hundred and forty-five thousand six hundred and seventy-two dollars 545,672

From the earmarked revenue fund, highway account for a functional highway classification study for personal services, operation, and capital, thirty thousand dollars 30,000

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From the federal and private revenue fund, highway trust account for a functional highway classification study, for personal services, operation, and capital, ninety thousand dollars 90,000

Fish & Game Commission:

From the bond proceeds and insurance clearance fund, long-range building program account for development of Plenty Coups state park and museum, twenty-five thousand dollars 25,000

The $25,000 appropriated by this act to the fish and game commission for the development of Plenty Coups state park and museum shall be expended in conjunction with $25,000 of donated funds pledged by Mr. Ed Kopac of Hardin, Montana who has also offered to donate some $10,000 in Indian paintings to the museum and in conjunction with $25,000 of donated funds authorized by the Crow Tribal Council resolution No. 68-29 of April 13, 1968.

Children's Center:

For compliance with Executive Order No. 1-69 to establish a counselor system and forty-hour week for counselors, there is hereby transferred to general fund appropriation number 66005, personal services, from general fund appropriation number 66003, operation and capital, thirty-eight thousand three hundred and eighty-five dollars 38,385

Industrial Accident Board:

For payment of claims for medical examinations, there is hereby transferred to general fund appropriation number 62603, operation, from general fund appropriation number 62604, grants and benefits, two thousand four hundred dollars 2,400

Livestock Sanitary Board:

For payment of part-time employees, there is hereby transferred to the appropriation from the earmarked revenue fund, Livestock Sanitary Board account, appropriation number 30204, disease control, part-time salaries, from the appropriation from the earmarked revenue fund, Livestock Sanitary Board Account, appropriation number 30202, personal services, exclusive of part-time, seven thousand five hundred dollars 7,500

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Highway Commission:

For payment of salaries and wages, there is hereby transferred to the appropriation from the earmarked revenue fund, highway account, appropriation number 36718, personal services, from the appropriation from the earmarked revenue fund, highway account, appropriation number 36719, operation and capital, three thousand dollars 3,000

Legislative Post Audit:

From the general fund for personal services, operation and capital, five thousand dollars 5,000

Board of Institutions:

For care of mentally retarded children residing at Warm Springs State Hospital, the Board of Institutions is authorized to transfer from general fund, appropriations available to Boulder River School and Hospital to Warm Springs State Hospital, an amount not to exceed three hundred and seventeen thousand dollars 317,000

Water Resources Board:

For payments to Bechtel Corporation there is hereby transferred to general fund appropriation number 75805 from general fund appropriation number 75816 the sum of fifty-five thousand dollars ($55,000) and from the appropriation from the earmarked revenue fund, water conservation account appropriation number 31602 there is hereby transferred forty-five thousand dollars ($45,000) to general fund appropriation number 75805.

Forty-first Legislative Assembly:

From the general fund for operation of the Forty-first Legislative Assembly 65,000

Section 2. This act is effective upon passage and approval.

Approved: March 17, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 7

An Act to Appropriate Monies to Certain State Agencies for the Biennium Ending June 30, 1971.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the agency to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees' retirement, industrial accident insurance, and any authorized health insurance. Employees' annual salary increases for the fiscal year ending June 30, 1970 shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1969, unless promoted to a position with additional responsibilities, duties, or both. Employees' annual salary increases for the fiscal year ending June 30, 1971 shall not exceed five percent (5%) of the annual salary received during the fiscal year ending June 30, 1970, unless promoted to a position with additional responsibility, duties, or both.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

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Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

(3) Any monies appropriated for budgeted positions that are not filled shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the agencies, boards, or institutions named in this act shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of each agency, commission, board or institution shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. No state officer, department, board, agency, commission, or institution shall establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. Where the operation of an office, department, board, agency, commission, or institution is financed by an appropriation or appropriations from the general fund as well as by funds from other sources, the portion provided by appropriation from the general fund shall be decreased to the extent that the receipt of the funds from other sources approved by the legislature in the review of the 1971 biennial budget are exceeded, provided that:

(1) Such decrease shall not jeopardize the receipt of such funds to be received from other sources; and

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(2) This section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor, upon a request submitted to him, through the budget director.

Section 8. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
ADJUSTED COMPENSATION DIVISION		
(1) From the earmarked revenue fund, war veterans' compensation administrative account for:		
(a) personal services	$ 2,310	
(b) operation	500	
BOARD OF EQUALIZATION		
(1) From the general fund for:		
(a) personal services	665,581	$698,308
(b) operation and capital	104,334	87,753
(c) sales ratio study	40,000	40,000
(d) multistate tax compact including costs of joint audits	8,000	8,000
(2) From the earmarked revenue fund:		
(a) highway account for personal services	139,764	146,768
(b) highway account for operation and capital	52,239	52,120
(c) state equalization aid account for operation	181,676	181,098
(d) aeronautics commission account for operation	5,000	5,000
(3) The amount of $2,000 is hereby appropriated from the earmarked revenue fund, highway account to the revolving fund, board of equalization ac-		

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count. From the revolving fund, board of equalization account there is appropriated all income from reimbursable expenditures for audits of motor fuel producers, dealers and users. Any balance remaining in this account at the end of the biennium shall revert to the account from which the appropriation was made.

(4) The salaries of the members of the board shall not exceed $11,130 for the fiscal year ending June 30, 1970; and $11,687 for the fiscal year ending June 30, 1971. The chairman of the board shall receive $500 each year in addition to his regular salary.

BOARD OF EXAMINERS

(1) From the general fund for:

(a) personal services	50,448	52,970
(b) operation and capital	6,200	7,050
(c) extradition and transportation of prisoners	55,000	55,000
(d) repair and maintenance of the roll call equipment in the house of representatives	1,500	1,500
(e) repair and maintenance of the roll call equipment in the senate	7,500	7,500
(f) maintenance of house of representatives and senate sound systems		1,500
(g) fire and casualty insurance premiums on state property	155,000	163,000
(h) contracted services to Montana veterans, their widows and orphans, on claims before the Veterans' Administration of the United States	6,000	6,000

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(2) From the earmarked revenue fund for fire and casualty insurance premiums on state property from:		
(a) university millage account	185,000	220,000
(b) highway account	45,000	46,000
(3) The head of this agency shall not receive a salary in excess of $10,028 for the fiscal year ending June 30, 1970; and $10,529 for the fiscal year ending June 30, 1971.		
(4) From the general fund for personal services, operation and capital of the constitution revision commission created by Senate Bill No. 111 of the Forty-first Legislative Assembly for the biennium ending June 30, 1971. The provisions of section 2 of this act shall not apply to the appropriation made by this subsection.	15,000	35,000
LAW LIBRARY		
(1) From the general fund for:		
(a) personal services	12,975	13,422
(b) operation and capital	15,410	15,410
(2) The head of this agency shall not receive a salary in excess of $8,352 for the fiscal year ending June 30, 1970; and $8,760 for the fiscal year ending June 30, 1971.		
LIBRARY COMMISSION		
(1) From the general fund for:		
(a) personal services	94,677	99,410
(b) operation and capital	62,823	62,190
(2) From the federal and private revenue fund, library commission account for:		
(a) operation, capital, and personal services	121,675	131,225

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(3) Federal grants as authorized by the Congress of the United States through the Library Services and Construction Act are hereby appropriated.

(4) The salary for the state librarian shall not exceed $12,000 for the fiscal year ending June 30, 1970; and $12,500 for the fiscal year ending June 30, 1971.

JOINT MERIT SYSTEM

(1) From the earmarked revenue fund, joint merit system account for:

(a) personal services	41,880	48,751
(b) operation and capital	9,390	9,865

BOARD OF HAIL INSURANCE

(1) From the earmarked revenue fund, hail insurance administration account for:

(a) personal services	32,504	34,239
(b) operation and capital	14,850	14,400

(2) The head of this agency shall not receive a salary in excess of $9,204 for the fiscal year ending June 30, 1970; and $9,708 for the fiscal year ending June 30, 1971.

OIL AND GAS CONSERVATION COMMISSION

(1) From the earmarked revenue fund, oil and gas conservation account for:

(a) personal services	159,386	164,285
(b) operation and capital	86,241	75,821

(2) The head of this agency shall not receive a salary in excess of $12,600 for the fiscal year ending June 30, 1970; and $13,230 for the fiscal year ending June 30, 1971.

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INDUSTRIAL ACCIDENT BOARD

(1) From the general fund for:		
(a) silicosis program for personal services	5,587	5,885
(b) silicosis program for operation	6,925	6,200
(c) silicosis program for grants and benefits	703,920	653,520
(2) From the earmarked revenue fund:		
(a) industrial accident administration account for personal services	446,393	468,438
(b) industrial accident administration account for operation and capital	295,618	276,959
(c) such monies as may be needed from the volunteer firemen's compensation account for grants and benefits.		
(3) The head of this agency shall not receive a salary in excess of $14,000 for the fiscal year ending June 30, 1970; and $14,000 for the fiscal year ending June 30, 1971, and shall be paid from the earmarked revenue fund, industrial accident administration account.		

GRASS CONSERVATION COMMISSION

(1) From the earmarked revenue fund, grass conservation account for:		
(a) personal services	9,628	10,212
(b) operation	5,700	5,700
(2) The head of this agency shall not receive a salary in excess of $8,500 for the fiscal year ending June 30, 1970; and $8,925 for the fiscal year ending June 30, 1971.		

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(1) From the earmarked revenue fund:

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(a) public employees' retirement system account for personal services	85,050	89,300
(b) public employees' retirement system account for operation and capital	58,373	58,788
(c) social security account for personal services	33,664	35,347
(d) social security account for operation and capital	25,969	19,475

(2) From the earmarked revenue fund, judges' retirement account:

(a) Montana Judges' Retirement Board for administration of same	1,100	1,100

(3) The head of this agency shall not receive a salary in excess of $13,800 for the fiscal year ending June 30, 1970; and $13,800 for the fiscal year ending June 30, 1971, and shall be paid one-half by the public employees' retirement system account and one-half by the social security account.

TEACHERS' RETIREMENT SYSTEM

(1) From the earmarked revenue fund, teachers' retirement account for:

(a) personal services	57,396	60,190
(b) operation and capital	105,950	47,080

(2) The head of this agency shall not receive a salary in excess of $13,800 for the fiscal year ending June 30, 1970; and $13,800 for the fiscal year ending June 30, 1971.

VETERANS' WELFARE COMMISSION

(1) From the general fund for:

(a) personal services	124,750	131,100
(b) operation and capital	30,970	30,825

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(2) The head of this agency shall not receive a salary in excess of $9,240 for the fiscal year ending June 30, 1970; and $9,700 for the fiscal year ending June 30, 1971.

(3) No part of the appropriation to the Veteran's Welfare Commission shall be used for any expenses in connection with out-of-state travel, when such expenses are otherwise reimbursed.

BOARD OF HEALTH

(1) From the general fund for:

(a) personal services, operation and capital 797,256 779,348

(b) regulation of transient lodging space and accommodations, all fees collected for such purposes are hereby appropriated.

(2) From the federal and private revenue fund:

(a) public health account for personal services, operation and capital..1,496,116 1,589,832

(b) heart and chest x-ray survey account for personal services, operation and capital 39,793 40,623

(3) From the general fund for alcohol and drug dependence control for personal services, operation and capital 12,000 12,000

(a) In lieu of reimbursement for expenses as provided by section 69-5215, R.C.M. 1947, members of the hospital and long-term care facility advisory council may receive twenty dollars ($20) per day for each meeting day and for each day spent on business of the council plus reimbursement for actual and necessary expenses

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from the general fund of the Board of Health.

(4) From the board of examiners for nursing home administrators special account for:

(a) operation and capital in an amount sufficient to pay all administrative expenses.

(5) The salary for the executive officer of this board shall not exceed $22,050 for the fiscal year ending June 30, 1970; and $23,150 for the fiscal year ending June 30, 1971.

DISTRICT JUDGES

(1) From the general fund for:

(a) personal services	585,808	586,245
(b) operation	39,000	39,000

MILK CONTROL BOARD

(1) From the earmarked revenue fund, milk control account for:

(a) personal services	76,457	80,280
(b) operation and capital	43,610	43,610

(2) The head of this agency shall not receive a salary in excess of $10,700 for the fiscal year ending June 30, 1970; and $11,000 for the fiscal year ending June 30, 1971.

(3) The chief clerk of this agency shall not receive a salary in excess of $8,190 for the fiscal year ending June 30, 1970; and $8,600 for the fiscal year ending June 30, 1971.

FISH AND GAME COMMISSION

(1) From the general fund for:

(a) personal services, operation and capital	150,000	150,000

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(2) From the earmarked revenue fund, account No. 213100, fish and game account for:		
(a) personal services, operation, capital, grants and benefits	3,363,430	3,717,039
(b) payment of Link Brothers' contract at Lewis & Clark Caverns	15,000	15,000
(3) From the federal and private revenue fund, Canyon Ferry-Tiber Account for operation, land acquisition, land improvements and capital, at state parks, recreation areas and monuments, account No. 418600	415,859	415,856
(4) From Clark Canyon—Canyon Ferry lease revenue account for operation and capital	12,000	12,000
(5) From the federal and private revenue fund, fish and game account No. 410522	1,050,000	1,150,000
(6) From the earmarked revenue fund, state parks account for personal services, operation and capital account No. 220500	105,000	105,000
(7) The salary of the deputy director of the fish and game commission shall not exceed $15,496 for the fiscal year ending June 30, 1970; and $16,164 for the fiscal year ending June 30, 1971.		
(8) The salary of the director of the fish and game commission shall not exceed $17,580 for the fiscal year ending June 30, 1970; and $18,456 for the fiscal year ending June 30, 1971.		
DEPARTMENT OF LABOR AND INDUSTRY		
(1) From the general fund for:		
(a) personal services	48,500	50,400
(b) operation and capital	15,450	13,700

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(2) The salary of the commissioner of labor shall not exceed $10,500 for the fiscal year ending June 30, 1970; and $10,500 for the fiscal year ending June 30, 1971.

(3) The salary of the director of the apprenticeship council shall not exceed $9,471 for the fiscal year ending June 30, 1970; and $9,902 for the fiscal year ending June 30, 1971.

AERONAUTICS COMMISSION

(1) From the earmarked revenue fund, aeronautics commission account for:		
(a) personal services	186,533	194,631
(b) operation and capital	231,090	214,940
(c) engineering grants	5,000	5,000
(d) state airport construction, maintenance, and repair, as authorized by law, including state airport land purchases	50,000	50,000
(e) as much as may be necessary for construction loans. Every municipality is authorized to accept, receive, receipt for, disburse and expend such state monies made available for such state loans. All state monies accepted by a municipality shall be accepted and expended by such municipality upon such terms and conditions as are prescribed by the state. The term "municipalities" as used herein shall have the meaning given to such term by the Municipal Airports Act (section 1-808, R.C.M. 1947).	194,000	193,000
(2) From the revolving fund, aeronautics commission account for:		
(a) state airport personal services, operation and capital	42,282	47,450

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(3) From the federal and private grant clearance fund, aeronautics commission account, all monies appropriated by federal government for specific airport projects.

(4) The head of this agency shall not receive a salary in excess of $14,244 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.

STATE FORESTER

(1) From the general fund for:

(a) personal services, operation and capital	644,041	669,470

(2) From the earmarked revenue fund for personal services, operation and capital:

(a) slash and brush disposal account	225,358	234,124
(b) timber stand improvement account	69,800	69,800
(c) forester's nursery account	40,900	37,000

(3) From the federal and private revenue fund for personal services, operation and capital:

(a) Clark-McNary account	113,500	113,500
(b) cooperative forest management account	45,500	45,500

(4) The salary for the state forester shall not exceed $13,965 for the fiscal year ending June 30, 1970; and $15,000 for the fiscal year ending June 30, 1971.

COORDINATOR OF INDIAN AFFAIRS

(1) From the general fund for:

(a) personal services	16,216	17,061
(b) operation and capital	6,216	6,381

(2) The salary of the coordinator shall not

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exceed $9,708 for the fiscal year ending June 30, 1970; and $10,293 for the fiscal year ending June 30, 1971.

OFFICE OF ECONOMIC OPPORTUNITY

(1) From the general fund for:		
(a) personal services, operation and capital	4,500	4,650
(2) From the federal and private revenue fund, O.E.O. coordinator account for:		
(a) personal services, operation and capital	30,450	31,100

DEPARTMENT OF LANDS AND INVESTMENTS

(1) From the general fund for payment to counties authorized by section 81-1118, R.C.M. 1947, for grants and benefits ..	133,000	133,000

REVISED CODES OF MONTANA

(1) From the general fund for purchase of replacement volumes and cumulative pocket supplements of the Revised Codes of Montana, 1947	29,375	

HIGHWAY TRAFFIC SAFETY DEPARTMENT

(1) From the earmarked revenue fund, highway account for:		
(a) personal services	7,750	7,912
(b) operation and capital	17,750	7,913
(2) From the federal and private revenue fund, traffic safety account for:		
(a) personal services	18,900	20,288
(b) operation and capital	1,100	687

(3) The salary of the director shall not exceed $10,500 for the fiscal year end-

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ing June 30, 1970; and $11,025 for the fiscal year ending June 30, 1971.

COUNTY PRINTING COMMISSION		
(1) From the general fund	1,000	1,000
MONTANA BUREAU OF MINES AND GEOLOGY		
(1) From the general fund, matching funds to the extent needed, for federal money available for a research and economic study of Montana coal to determine its anti-pollution value for use in industry	50,000	
COLLECTION AGENCY BOARD		
(1) From the earmarked revenue fund, collection agency for:		
(a) operation and capital in an amount sufficient to pay all legal and necessary claims.		

Section 9. This act shall become effective to those public officers in this act whose term began on or subsequent to January 6, 1969, however, such designated salaries in this act shall become effective on July 1, 1969.

Approved: March 19, 1969.

EXTRAORDINARY SESSION HOUSE BILL NO. 9

An Act to Appropriate Monies to the State Highway Commission for the Biennium Ending June 30, 1971.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the state highway commission and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full-time, part-time, and temporary employees of the state and includes the state's contribution for social security, employees'

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retirement, industrial accident insurance, and any authorized health insurance. Employees' annual salary increases for the fiscal year ending June 30, 1970, shall not exceed five percent (5%) of the annual salary rate received as of June 30, 1969, unless promoted to a position with additional responsibility, duties, or both. Under board approval salaries may be adjusted to be competitive. Employees' annual salary increases for the fiscal year ending June 30, 1971, shall not exceed five percent (5%) of the annual salary rate received as of June 30, 1970, unless promoted to a position with additional responsibility, duties, or both. Under board approval salaries may be adjusted to be competitive.

(3) The term "repairs and maintenance" means repairs to equipment and cost of replacing parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air-conditioning systems in buildings, occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall include the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for the construction, improvement, betterment, or furnishing of buildings, structures, or purchase of buildings or land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations, or individuals.

(6) The term "approved budget amendment" means approval of a request by the governor submitted to him through the budget director. An informational copy of each request for a budget amendment shall be filed with the legislative fiscal analyst.

Section 2. (1) The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations were made. The unexpended balance of any appropriation shall revert to the fund from which it was appropriated at the end of each fiscal year, except amounts encumbered by purchase order. However, in case of necessity, an appropriation not expended during the first fiscal year of the biennium may be expended during the second fiscal year if authorized by the governor by an approved budget amendment.

(2) It shall be unlawful to purchase any article or service for a succeeding biennium with an appropriation contained in this act.

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(3) Any monies appropriated for budgeted positions that are not filled shall not be used for salary increases but shall revert to the fund from which appropriated.

Section 3. Unless otherwise provided in this act, all monies received or collected from any source whatsoever by the state highway commission shall be deposited in the state treasury and credited to the proper fund.

Section 4. The salary of the chief administrator of the state highway commission shall be determined by the appointing authority in accordance with the statutory provisions and, in no case, shall the salary determined exceed the amounts set out in this act for the agency.

Section 5. In addition to the appropriations contained in this act, all other monies received from all other sources may be made available by an approved budget amendment.

Section 6. The state highway commission shall not establish new programs or expand existing programs beyond the scope of the programs already established, recognized and approved by the legislature in the review of the 1971 biennial budget, until such program and the method of financing shall be presented to the governor through the budget director, for approval.

Section 7. The following monies are appropriated for the biennium ending June 30, 1971:

	For the Fiscal Year Ending June 30, 1970	For the Fiscal Year Ending June 30, 1971
MONTANA HIGHWAY COMMISSION		
(1) From the Earmarked Revenue Fund, State Highway Account for:		
(a) personal services	$10,679,193	$11,445,241
(b) operation and capital	18,994,193	21,543,140
(c) grants and benefits—aid to cities and counties	3,000,000	3,000,000
(2) From the Federal and Private Revenue Fund, State Highway Account for:		
(a) personal services	10,772,593	12,091,456

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(b) operation and capital	60,715,550	74,961,064
(3) From the Earmarked Revenue Fund, State Highway Account for the advertising program:		
(a) personal services	40,560	42,643
(b) operation and capital	309,440	307,357

(4) From the Revolving Fund: The amount of $250,000 is appropriated from the Earmarked Revenue Fund, State Highway Account to establish a Revolving Fund, State Highway Account, to cover all reimbursable expenditures. Any balance remaining in the revolving fund, highway account, at the end of the biennium shall revert to the fund from which it was appropriated.

(5) Any funds available to the Montana Highway Commission for distribution to cities and counties under section 84-1840, R.C.M. 1947, which are unexpended during the biennium ending June 30, 1969, are hereby reappropriated to the biennium ending June 30, 1971. The provisions of section 2 relating to annual reversions shall not apply to appropriations made under section 84-1840, aid to cities and counties.

(6) The salary of the state highway engineer shall not exceed $19,110 for the fiscal year ending June 30, 1970; and $20,065 for the fiscal year ending June 30, 1971.

(7) The amount of $250,000 is appropriated from the Earmarked Revenue Fund, State Highway, to establish a Revolving Fund, State Highway Account, Motor Vehicle Pool, to cover all reimbursable expenditures in con-

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nection with the statewide Motor Vehicle Pool. Any balance remaining in the Revolving Fund, State Highway Account, Motor Vehicle Pool, at the end of the biennium shall revert to the fund from which it was appropriated.

Approved: March 17, 1969.

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CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Jan. 6, 1967	Craig Lee Daubert	Craig Lee Barth	Billings
Feb. 6, 1967	William A. Lasater	William L. Kline	Glasgow
Feb. 17, 1967	Frank Berresford Scrogham	Frank Berre Holthues	Billings
Feb. 17, 1967	Robert Michael Kilburn	Michael Robert Blahnik	Hamilton
Feb. 17, 1967	John Dee Kilburn	John Dennis Blahnik	Hamilton
Mar. 9, 1967	Daniel Darrell Marshall	Daniel Darrell Heimbigner	Chester
Mar. 9, 1967	Alvin Lee Birdinground	Alvin Lee Not Afraid	Big Horn County
Mar. 10, 1967	Gertrude Marieta (Trudi) West	Gertrude Marieta (Trudi) Engebretson	Miles City
Mar. 13, 1967	Thomas Leon Nix	Thomas Leon Mix	Cascade County
Mar. 16, 1967	Duane Francois Brasseur	Duane Francois Basseur	Missoula
Mar. 16, 1967	Georgia Mae Brasseur	Georgia Mae Basseur	Missoula
Mar. 20, 1967	Shawn Dennis Barnett	Sean Dennis Barnett	Missoula
Mar. 21, 1967	David Ray Armijo	David Ray Sell	Glasgow (AFB)
Mar. 21, 1967	Charles Robert Armijo	Charles Robert Sell	Glasgow (AFB)
Mar. 24, 1967	Eldon Raye Schmidtgall	Eldon S. Raye	Billings
Mar. 30, 1967	Gertrude Vienna Turpin	Gertrude Vienna Rusk	Deer Lodge
Apr. 3, 1967	Martin Crowder	Martin Paul Mann	Glendive
Apr. 4, 1967	Roger Allen Glotfelty	Roger Allen Enseliet	Cascade County
Apr. 4, 1967	James Cornel Bigcrane	James Cornel Matthew	Glasgow (AFB)
Apr. 10, 1967	Ida Roseann Stidham	Ida Roseann Hills	Butte
Apr. 10, 1967	James Lee Stidham	James Lee Hills	Butte
Apr. 11, 1967	Larry Gordon Gilchrist	Larry Gordon Correll	Glendive
Apr. 11, 1967	Lexie Gaye Gilchrist	Lexie Gaye Correll	Glendive
Apr. 19, 1967	Joseph Lawrence LaRocque	Larry Sequist LaRocque	Cascade County
Apr. 20, 1967	Gerald Richard Crum	Gerald Richard Crum Backen	Libby
Apr. 24, 1967	John Leslie Flynn	John Leslie Lulf	Glasgow
May 3, 1967	Judith Ann Mangiaracina	Judith Ann Bouler	Cascade County
May 15, 1967	Mark Richard Siewing, Jr.	Mark Richard Linn	Bozeman
May 19, 1967	Dorothy M. Botnen	Dorothy M. Larson	Miles City
June 1, 1967	Nadine Faye Nelson	Nadine Faye Bolinger	Big Horn County
June 1, 1967	William Edward Follett	William Edward Bolinger	Big Horn County
June 7, 1967	Pauline Hereim	Pauline Davies	Malta
June 7, 1967	Karyl Dean Kirkaldie	Karole Dean Overberg	Dodson
June 9, 1967	Patrick Eugene Reardon	Patrick Eugene Duncan	Butte
June 21, 1967	Margarita Llanos Rodriguez	Margarita Llanos Zuniga	Cascade County
June 23, 1967	Dominic Linell	Dominic Giardina	Havre
June 29, 1967	Marrion Frances Rickard	Otto Weisser	Big Horn County
June 29, 1967	Tommy Joseph Woods	Tommy Joseph Moore	Cascade County
June 29, 1967	Alice Jennet Rose	Vergyle Jeannette Rose	Missoula
July 6, 1967	Kenny Lee Olson	Kenny Lee Reimche	Glasgow
July 7, 1967	Byron Emmett Butt	Byron Emmett Mazurek	Helena
July 10, 1967	Gerald Lee Cox	Gerald Lee Lewis	Bozeman
July 12, 1967	David Arnold Olk	David Arnold Ballard	Jefferson County
Aug. 1, 1967	Douglas Arthur Engle	Douglas Arthur Landru	Fergus
Aug. 1, 1967	Deborah Lee Engle	Deborah Lee Landru	Fergus
Aug. 11, 1967	Ronald Douglas Burns	Ronald Douglas Groshelle	Billings
Aug. 14, 1967	Patricia Irene Hawley	Patricia Irene McQuire	Cascade County
Aug. 15, 1967	James Edward Buckner	James Ennis Rude	Park City
Aug. 18, 1967	Mary Anne Frankovich	Mary Anne Frank	Billings
Aug. 21, 1967	Bruce Ted Skinner	Bruce Harris Keithler	Billings
Aug. 21, 1967	Wanda Irene Miller	Wanda Irene Ellis	Glasgow
Aug. 21, 1967	Phillip Aaron Crazy Bull	Phillip Aaron Cummins	Wolf Point
Aug. 22, 1967	Jacob C. Weber	Jacob C. Rhodes	Flathead County
Aug. 23, 1967	Ralph Leon Jones	Ralph Leon Frasure	Cascade County
Aug. 23, 1967	Randall Brent Jones	Randall Brent Frasure	Cascade County
Sept. 1, 1967	Stanley Dale Robinson	Stanley Dale Farnham	Havre
Sept. 5, 1967	Michael Edward Dermott	Michael Edward Webster	Roy

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CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Sept. 8, 1967	Terry Scott Parent	Terry Scott Wicka	Cascade County
Sept. 15, 1967	Oliver David Oliver	Harold David Oliver	Billings
Sept. 18, 1967	Thomas James Rathbun	Jay David Anderson	Glendive
Sept. 18, 1967	Tana Gay Rathbun	Tana Gay Anderson	Glendive
Sept. 22, 1967	Robert Wayne Olson	Robert Wayne Reopelle	Butte
Sept. 22, 1967	Thomas Patrick Olson	Thomas Patrick Reopelle	Butte
Sept. 26, 1967	Walter James Laukeman, Jr.	Walter James Worthington	Flathead County
Oct. 5, 1967	Paul C. Isaacs	Paul F. Isaacs	Missoula
Oct. 6, 1967	Clara Mae Ledoux Poupa	Bonnie Gean Ledoux Poupa	Pendroy
Oct. 11, 1967	George Leo Corrigeux, Jr.	George Leo Kutt	Cut Bank
Oct. 11, 1967	Betty Jane Corrigeux	Betty Jane Kutt	Cut Bank
Oct. 11, 1967	Michael Lee Corrigeux	Michael Lee Kutt	Cut Bank
Oct. 11, 1967	Debra Lynn Corrigeux	Debra Lynn Kutt	Cut Bank
Oct. 16, 1967	Harold Lewis Lund	Harold Lewis Beck	Missoula
Oct. 18, 1967	Berniece Smith	Berniece Grabofsky	Nashua
Oct. 18, 1967	Dora Neuhardt	Dora Morton	Billings
Oct. 19, 1967	Richard Patrick Wallick	Paul Charles Wallick	Miles City
Oct. 20, 1967	Richard Albert Barton	Richard Albert Cary	Helena
Oct. 20, 1967	Johanne Marie Elise Barton	Johanne Marie Elise Cary	Helena
Oct. 20, 1967	Christine Barton	Christine Cary	Helena
Oct. 20, 1967	Claudene Elisabeth Barton	Claudene Elisabeth Cary	Helena
Oct. 24, 1967	Dallas Gerald Manley	Dallas Gerald O'Connor	Wolf Point
Oct. 31, 1967	Jack Leroy Ayers	Jack Leroy Peterson	Flathead County
Nov. 3, 1967	Florence Irene Morris	Florence Irene Leland Erickson	Corvallis
Nov. 6, 1967	Kim Sherene Scott	Kim Sherene Minyard	Cascade County
Nov. 6, 1967	Kellie Lynne Scott	Kellie Lynne Minyard	Cascade County
Nov. 14, 1967	Steven Lewis Stenerson	Steven Lewis O'Hern	Townsend
Nov. 14, 1967	Clifton Clarence Stenerson	Clifton Clarence O'Hern	Townsend
Nov. 14, 1967	David Roger Stenerson	David Roger O'Hern	Townsend
Nov. 15, 1967	David Victor Neidhart	David Victor Weitzel	Butte
Nov. 16, 1967	Ricky Allen Kantos	Richard Allen Salcido	Missoula
Nov. 30, 1967	Michelle M. Williams	Michelle M. Wilkerson	Miles City
Dec. 6, 1967	Cesar Melendez Garcia	Cesar Melendez	Cascade County
Dec. 8, 1967	Roland Burd Blackburn	Roland Burd Herndon	Townsend
Dec. 11, 1967	Marilyn Joyce Lahd	Marilyn Joyce Myers	Missoula
Dec. 14, 1967	Edwin Douglas Zinck	Douglas Earl Croft	Missoula
Dec. 15, 1967	Ronald Anthony Michelich	Ronald Anthony Webster	Butte
Dec. 15, 1967	Jack Arthur Webster	Jack Arthur Condrey	Butte
Dec. 18, 1967	Dennis Richard Wellner	Dennis Richard McInteer	Billings
Dec. 19, 1967	Michael Duane Luce	Michael Duane Hampson	Superior
Dec. 27, 1967	Janet M. Boyle	Janet M. Smollack	Anaconda
Dec. 29, 1967	Robert Dean Casey	Robert Dean Freeman	Butte
Jan. 2, 1968	MacErvin Ernest Anderson	Mickey Ernest Anderson	Yellowstone County
Jan. 8, 1968	Robert Edmond Gonsioroski	Robert Edmond Gonsior	Kalispell
Jan. 12, 1968	DeNora Marie Hanley	DeNora Marie Chambers	Kevin
Jan. 17, 1968	Gabriel Lynn Delaney	Penny Lynn Schultz	Cascade County
Jan. 31, 1968	Donald Robert Baker	Donald Robert Casey	Helena
Jan. 31, 1968	Allison L. Blank	Allison L. McBride	Dodson
Feb. 6, 1968	Eugene Richard Herrin	Eugene Richard Longmire	Helena
Feb. 14, 1968	Kathleen Mary Elbert	Kathleen Mary Elbert Beal	Yellowstone County
Feb. 14, 1968	Laura Lee Elbert	Laura Lee Elbert Beal	Yellowstone County
Feb. 14, 1968	Julie Anne Elbert	Julie Anne Elbert Beal	Yellowstone County
Feb. 16, 1968	John William Roggow	Jack William Moore	Helena
Feb. 19, 1968	Jack Edwin Brewster	Jack Edwin Lindell	Glendive
Feb. 19, 1968	Kenneth Corwin Munson	Kenneth Corwin Olbu	Missoula
Feb. 23, 1968	Sandra Irene Rummel	Sandra Irene Pauley	Helena
Feb. 29, 1968	Leonard E. Koch	Leonard E. Cook	Potomac

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CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Mar. 1, 1968	Violet Marie Reiter	Violet Marie Lueck	Miles City
Mar. 4, 1968	Georgelle Carleen Rocco	Georgelle Carleen Malloy	Butte
Mar. 8, 1968	Robert James Terribilini	Robert James Gruel	Yellowstone County
Mar. 8, 1968	Paul Andrew Terribilini	Paul Andrew Gruel	Yellowstone County
Mar. 15, 1968	Lucille Hagemeister	Lucille Garlington	Miles City
Mar. 20, 1968	Patrick Edward Gallagher	Patrick Edward Stanley	Judith Gap
Mar. 20, 1968	Kathleen Ann Gallagher	Kathleen Ann Stanley	Judith Gap
Mar. 20, 1968	Dennis Vincent Gallagher	Dennis Vincent Stanley	Judith Gap
Mar. 22, 1968	Pearl Annette Wostel	Ann Wostel	Helena
Mar. 22, 1968	Charles Albert Goss	Robert Goss	Anaconda
Mar. 25, 1968	Sally Georgia Klupp	Sally Georgia Grinsteiner	Yellowstone County
Mar. 29, 1968	Vicki Jean Lasater	Vicki Jean Kline	Glasgow
Apr. 5, 1968	Charles Scott Arthur	Charles Scott Forrest	Choteau
Apr. 18, 1968	Karen Marie Davis	Karen Marie Gallagher	Missoula
Apr. 18, 1968	Kevin Mikel Davis	Kevin Mikel Gallagher	Missoula
Apr. 18, 1968	Kathryn Mazie Davis	Kathryn Mazie Gallagher	Missoula
Apr. 18, 1968	Kristin Marian Davis	Kristin Marian Gallagher	Missoula
Apr. 18, 1968	Kelsa Maureen Davis	Kelsa Maureen Gallagher	Missoula
Apr. 24, 1968	Scott Allen Cox	Richard Allen Cox	Whitefish
Apr. 24, 1968	Mack Roger Kirkendoll	Mack Roger Wade	Great Falls
May 6, 1968	Richard Allen English	Richard Allen Houtchens	Helena
May 6, 1968	Michael Duane Sexton	Michael Duane Harp	Flathead County
May 15, 1968	Dale Martin Toupe	Dale Martin Ward	Lake County
May 16, 1968	Lorraine M. Ward	Lorraine M. Schefter	Miles City
May 22, 1968	Edward Wilson Earrings	Edward Wilson After Buffalo	Browning
May 28, 1968	Frederick Roy Sanders	Pete Roy Feller	Great Falls
May 28, 1968	Guinevive Olive Washburn	Marian Irene Quitt	Thompson Falls
June 5, 1968	Daniel Eugene Holmes	Daniel Eugene Bummer	Red Lodge
June 5, 1968	Troyce Felton Williams	Hoss Ensey	Yellowstone County
June 10, 1968	Irene Bartlett	Irene E. Morel	Miles City
June 11, 1968	Trevert Gene Rummel	Trevert Gene Kelly	Thompson Falls
June 12, 1968	Marlene Joan Kozlovsky	Marlene Susan Faught	Great Falls
June 13, 1968	Bobe Huseby	Bert Alfred Stenerson	Hardin
June 13, 1968	Mark Hans Holt	Hans Mark Holt	Missoula
June 14, 1968	Juasio Paz	Nash Paz	Yellowstone County
June 17, 1968	Barbara Joan Cutting	Barbara Joan Hoff	Bozeman
June 17, 1968	James Duncan Cutting	James Duncan Hoff	Bozeman
July 1, 1968	Marvin Neil Cinnamon	Marvin Neil Cameron	Dillon
July 1, 1968	Donna Maurine Cinnamon	Donna Maurine Cameron	Dillon
July 1, 1968	George Douglas Cinnamon	George Douglas Cameron	Dillon
July 1, 1968	Gregory Douglas Cinnamon	Gregory Douglas Cameron	Dillon
July 1, 1968	Julie Frances Cinnamon	Julie Frances Cameron	Dillon
July 1, 1968	Otha Burnetta (Bernice) Cole	Bernice Vaughn	Bozeman
July 3, 1968	Richard David McCormack	Richard David Scharler	Butte
July 3, 1968	Annis Arvelione Lockwood Pearson	Arvilene Avis Lockwood Pearson	Yellowstone County
July 10, 1968	Elsie Victoria Bishop	Elsie Victoria Boham	Great Falls
July 15, 1968	Toney Wayne Benson, Jr.	Tony Wayne Pease	Poplar
July 15, 1968	Toni Lee Benson	Toni Lee Pease	Poplar
July 15, 1968	Tina Lynn Benson	Tina Lynn Pease	Poplar
July 29, 1968	Tammy L. Whisenand	Tammy L. Kulczyk	Valley County
Aug. 8, 1968	Sandra Lee Stuenkel	Sandra Lee Schaefer	Browning
Aug. 9, 1968	Joan Maxine Loeffler	Joan Maxine McCracken	Ledger
Aug. 19, 1968	Loretta C. Bingham	Loretta C. Nelson	Miles City
Aug. 20, 1968	Charles Darrell Oakden	Charles Darrell Hatfield	Butte
Aug. 23, 1968	John Lyle Tauck	Lyle Hans Tauck	Carter County
Aug. 23, 1968	Dwain Raymond* Sewell	Dwain Raymond Mullins	Lincoln County
Aug. 29, 1968	Bruce Tyler Crain	Bruce Tyler Wontor	Missoula

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CHANGES OF NAMES DECREED IN 1967-1968

Date of Judgment	Original Name	Name Decreed	Residence
Aug. 29, 1968	Gregory O. Engdahl	Gregory O. Sweetser	Helena
Aug. 30, 1968	Cheryl Ann Luther	Cheryl Ann Hoffman	Yellowstone County
Sept. 3, 1968	Sharon Jean Naylor	Sharon Jean Winegar	Kalispell
Sept. 3, 1968	James Leon Naylor	James Leon Winegar	Kalispell
Sept. 3, 1968	John Wayne Naylor	John Wayne Winegar	Kalispell
Sept. 11, 1968	Frederick Russell Reed	Frederick Russell Alverson	Great Falls
Sept. 11, 1968	Judith Ann Reed	Judith Ann Alverson	Great Falls
Sept. 11, 1968	Tracy Lynn Reed	Tracy Lynn Alverson	Great Falls
Sept. 11, 1968	Russell Daniel Reed	Russell Daniel Alverson	Great Falls
Sept. 11, 1968	Dennis Gene Reed	Dennis Gene Alverson	Great Falls
Sept. 11, 1968	Leona Marion Schwartz	Pat Leona Tryon	Yellowstone County
Sept. 12, 1968	Judith A. Lanning	Judith A. McKeever	Miles City
Sept. 17, 1968	Thomas Steven Armstrong	Thomas Steven Gould	Gardiner
Sept. 26, 1968	Harry John Ramey	Rocky Harry John Ramey	Columbia Falls
Oct. 10, 1968	Anna Johnson Fox	Blanche Ramona Fox	Missoula
Oct. 15, 1968	Osman C. VanMetre	Joe VanMetre	Lewistown
Oct. 21, 1968	Elijah Walkings	Elijah Chase	Glasgow
Oct. 21, 1968	Marie Walkings	Marie Chase	Glasgow
Oct. 21, 1968	Vernon James Walkings	Vernon James Chase	Glasgow
Oct. 21, 1968	Norman Michael Walkings	Norman Michael Chase	Glasgow
Oct. 21, 1968	Richard Allen Walkings	Richard Allen Chase	Glasgow
Oct. 21, 1968	Cheryl Ann Walkings	Cheryl Ann Chase	Glasgow
Oct. 21, 1968	Janice Mae Walkings	Janice Mae Chase	Glasgow
Oct. 22, 1968	Roland John Wheeler	Roland John Bragg	Livingston
Oct. 30, 1968	Mary Dietz	Mary McGuire	Helena
Nov. 6, 1968	Shaulee Teresa Crawford	Shaulee Teresa Surratt	Great Falls
Nov. 6, 1968	Nancy Lotton	Nancy Goldberg	Havre
Nov. 6, 1968	Kenneth Sander Madslangrud	Kenneth Sander Rude	Great Falls
Nov. 6, 1968	Edrie Dorene Madslangrud	Edrie Dorene Rude	Great Falls
Nov. 6, 1968	Marcie Kay Madslangrud	Marcie Kay Rude	Great Falls
Nov. 6, 1968	Keith Allen Madslangrud	Keith Allen Rude	Great Falls
Nov. 6, 1968	Kurt Michael Madslangrud	Kurt Michael Rude	Great Falls
Nov. 6, 1968	Brad Eugene Madslangrud	Brad Eugene Rude	Great Falls
Nov. 7, 1968	Arthur Edison Lincoln	Arthur Edison Groshong	Missoula
Nov. 8, 1968	Randy Matthew Campbell	Randy Lee Goins	Yellowstone County
Nov. 12, 1968	Albert George Christensen	Albert George Larive	Park County
Nov. 15, 1968	Robert August Jermann	Robert August Thomas	Stevensville
Nov. 15, 1968	Jerry Edward Jermann	Jerry Edward Thomas	Stevensville
Nov. 20, 1968	Sheila Diane Cartright	Sheila Diane Gray	Great Falls
Nov. 25, 1968	Richard Lynn Hanson	Richard Lynn Knight	Roosevelt County
Nov. 25, 1968	Robert James	Robert Douvia	Missoula
Nov. 25, 1968	Arthur James	Arthur Douvia	Missoula
Nov. 25, 1968	Richard James	Richard Douvia	Missoula
Nov. 27, 1968	Arega Robert Mingo, Jr.	Robert Curtis Lowe	Great Falls
Dec. 6, 1968	Linda Gay Brezinsky	Linda Gay Cahill	Dillon
Dec. 17, 1968	Francie Kay Nutter	Francie Kay Pope	Helena
Dec. 20, 1968	Carolyn Embry	Carolyn Dunsworth	Great Falls
Dec. 26, 1968	Roy Michael Evans	Roy Michael Hamilton	Park County

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APPENDIX

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APPENDIX

The following referendum measure (No. 65) was adopted by the people of the general election held November 5, 1968.

REFERENDUM MEASURE NO. 65

CHAPTER 50

MONTANA SESSION LAWS 1967

An Act Submitting to the Electorate at the November 1968 General Election the Question of Whether or Not the Legislative Assembly Shall Levy a Property Tax, in Addition to Any Levy Authorized by Section 9, Article XII of the Montana Constitution of Not to Exceed Six (6) Mills on the Taxable Value of All Real and Personal Property Each Year for Ten (10) Years Beginning With the Year 1969 and Appropriate the Revenue From That Levy for the Support, Maintenance and Improvement of the Montana University System.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Upon the approval of the electors of this state, to be determined by their vote at the general election to be held in November of 1968, the legislative assembly shall levy a property tax, in addition to any levy authorized by section 9, article XII of the Montana constitution, of not more than six (6) mills on the taxable value of all real and personal property each year for ten (10) years beginning with the year 1969. All revenue from this property tax levy shall be appropriated for the support, maintenance, and improvement of the Montana university system.

Section 2. This referendum shall be submitted to the electors on an official ballot which shall contain the title of this act and the number of the referendum. The question shall be presented in substantially the following form:

☐ For Referendum Measure No.....

☐ Against Referendum Measure No.....

Approved: February 18, 1967.

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